

The Reality of Torture: Congress and the Construction of a Political Fact

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THE REALITY OF TORTURE:

CONGRESS AND THE CONSTRUCTION OF A POLITICAL FACT

A dissertation

by

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The Reality of Torture: Congress and the Construction of a Political Fact

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Abstract. Existing studies of governmental responses to human rights allegations emphasize the rhetorical forms that official claims take at the expense of demonstrating how contextual factors influence discourse. Analytically, this dissertation accounts for these factors by theorizing and analyzing how knowledge and culture operate in American political discourse of torture. Drawing on a qualitative content and discourse analysis of 40 congressional hearings, held between 2003 and 2008, this dissertation documents a transition in American politics from a discourse of denial, which downplayed allegations of abuse and torture, to a discourse of acknowledgment, which criticized the Bush administration's interrogation policies on the grounds that the policies permitted torture and undermined U.S. interests. By situating this transition within its institutional and political context, this study examines the influence of documentary evidence of torture, interpretive frames in which American officials situated that evidence, and political power as expressed in control over congressional committees on political discourse.

Between 2003 and 2008, a significant volume of documentary evidence of violence against detainees in U.S. custody entered public discourse. Typically, shifts in congressional discourse followed the release of official, documentary evidence produced by government sources, such as military police or FBI agents, that provided first-hand or localized portrayals of abuse and torture at U.S. detention facilities. Such documents, including the photographs taken at Abu Ghraib prison and FBI emails documenting

torture at Guantánamo, secured a “reality” of violence that members of Congress found difficult to rationalize as legitimate state violence. This difficulty stems, in part, from the fact that localized portrayals of interpersonal violence frequently capture the excesses of that violence—the irrationality, sadism, and innovations in cruelty of torturers and the vulnerabilities of sufferers of torture. Significantly, though, the political meaning of documentary evidence derives from the interpretive frames in which it is situated.

Between 2003 and 2008, “human rights” and the “rule of law” became increasingly available as interpretive frames for the political debate over detention and interrogation. This development resulted from several changes in the political environment, including the Bush administration’s mobilization of human rights to legitimize the Iraq war and the Supreme Court’s rulings on cases involving detainees. The Democrat’s mid-term victory in 2006, which won Democrats control over both the House of Representatives and Senate, also profoundly influenced political discourse. Democrats used congressional committees to pursue broad, reflective hearings on the Bush administration’s detention and interrogation policies. By inviting legal scholars and representatives of human rights organizations to speak about the policies, the Committees further elevated human rights and the rule of law in the debate about torture. Given these developments, a critical discourse of torture gradually emerged and solidified. This discourse labeled American interrogation practices—known to their supporters as “enhanced interrogation”—as torture and linked their use to significant and negative global consequences for the U.S.

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Preface

In the early years of the U.S.'s war in Iraq, the Department of Defense provided no official counts of Iraqi casualties. It would take something else to bring American violence in Iraq back home. In late-April 2004, a report on detainee abuse, aired by CBS' now-defunct *Sixty Minutes II*, included digital photographs of Americans torturing detainees and posing with the corpse of an Iraqi at Abu Ghraib prison. For many Americans, the photographs taken at Abu Ghraib prison have come to stand-in for the Bush administration's detention and interrogation program more generally. The photographs also provided an opportunity for American political culture to reckon with, to co-opt Vice President Dick Cheney's well-worn phrase, the dark side of the U.S.'s war in Iraq.

The acts of violence photographed at Abu Ghraib are, in many ways, unrepresentative of contemporary violence and, in particular, contemporary U.S. violence. They do not depict the technologies of "shock and awe" that re-introduced the people of Iraq to American force. Nor do they depict the trajectory of U.S. counter-terrorism—missile strikes from unmanned "drones" and targeted assassinations. Such forms of violence appear, at least culturally, highly instrumental and precise. They tend to spark outrage only when there is a breach in that image, as when a video recording of a U.S. Apache helicopter firing on unarmed Iraqis revealed that even technologically sophisticated violence could be committed with ferocity, pursued as an end in itself. The photographs taken at Abu Ghraib prison, however, show violence that appears atavistic—and, more importantly, exceptional. Some viewers saw in the photographs other, older

images of sadism—the Crucifixion of Jesus or the lynching of African-Americans. Others observed “isolated incidents.”

This dissertation is a study of the political reckoning with Abu Ghraib and of the subsequent debate about the treatment of detainees and interrogation policy. It is, in other words, a study of forms of cruelty that appear, at first glance, anachronistic and outmoded. And yet, the political reckoning with torture reveals the contours of contemporary discourses of violence, the ways that certain expressions of cruelty become palatable to a democracy while others become indigestible. As will become clear over the course of this dissertation, American interrogation practices remained politically defensible so long as they could be credibly described as clinical, instrumental, and callous.

It is possible that the political reckoning with Abu Ghraib and with torture more generally will stand, for many Americans, as the country’s only sustained encounter with the other side of American violence in Afghanistan and Iraq (and now Somalia, Yemen, Libya, and Pakistan). As such, the debates analyzed in this dissertation provide a window, albeit an opaque one, on the meanings of “us,” the meanings of “them,” and the relations between.

* * * *

This dissertation originates in a proposed paper, initially abandoned, for Stephen Pfohl’s course on visual culture, “Images and Power.” Over the past eight years, I have been the beneficiary of Stephen’s generous feedback and guidance. This dissertation bares the traces of Stephen’s mentorship and of the intellectual concerns born in his classes. I am also grateful to Sarah Babb and C. Shawn McGuffey for their sustained engagement with

this work and, in particular, for teaching me how to practice and write as a qualitative sociologist. As a dissertation committee, Stephen, Sarah, and Shawn have been dogged advocates and supporters of my work, and I am indebted to them for the time, teaching opportunities, and financial support that have made this dissertation possible.

Darius Rejali has, through his scholarship and through bursts of email exchanges, also guided this dissertation. I owe the conclusion of this study, which seeks to “speak frankly” about torture, to him. I have further benefitted from the scholarship of, feedback from, and conversations with Stephanie Athey, Jonathan Markowitz, and Liza McCoy. I am also grateful to Sarah Hogan, who introduced me to government documents. I gratefully acknowledge the support of the Department of Sociology at Boston College, which awarded me a Summer Research Fellowship near the beginning of this project, and Boston College’s Graduate School of Arts and Sciences, which awarded me a Dissertation Year Fellowship near its end.

Over the past four years, I have been fortunate to teach courses on torture at Boston College and the Tufts University Experimental College. Through their intellectual curiosity, students in these courses have enriched this research; I have learned much about torture—and what is at stake when we consider it—from their contributions to my class. Nathaniel A. Raymond and Farnoosh Hashemian of Physicians for Human Rights were kind enough to speak to students in my class on torture on September 11, 2008. I am grateful to them for sharing their knowledge of American detention practices and their experiences working with torture survivors. Glenn Carle was kind enough to speak

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I am lucky to have lifelong friends with expertise in other disciplines. Whatever epistemological clarity that appears in the following pages is due to Jason Altilio. Steven Altman, Shivang Shah, and Jason Farbman have engaged me on the politics of torture and other serious and not so serious matters.

I am indebted to my family, who have supported and inspired my work and who constitute the world beyond my word processor. More than once, Melissa has shared her home with me; spending time with her and her family over holidays and breaks have, I believe, staved off exhaustion. More than once, Jeremy has saved me from technological disaster; his generosity with his time and skills has kept my computers operating against all odds. Andrew's contributions to this work are less concrete, but no less certain; his encouragement and occasional provocations have been essential.

Cynthia Del Rosso, of course, has been an inspiration.

Over the past seven years, Jennifer Esala has been the first reviewer of my work and my favorite sociologist. Jennifer has walked uncounted miles with me, working out

the intricacies of research and the dull aches left by the hours in front of the computer.

She has also watched far more films on torture than, I suspect, she ever intended.

Finally, this dissertation is dedicated to my parents, Monica and Wayne, who taught me to think. Without their support, which has always been unconditional, this dissertation would not have been possible.

Introduction

In the final question of the first presidential debate of 2008, moderator Jim Lehrer asked the two major party candidates—Senators John McCain and Barack Obama—to evaluate the likelihood of “another 9/11-type attack on the continental United States.”¹ In place of prognoses, both candidates offered optimism tinged with insecurity: the nation had become “safer” since September 11, 2001, but “we are far from safe” (Senator McCain) and “we still have a long way to go” (Senator Obama). Why the ambivalence? In their responses, the candidates cited torture:

McCain: We've got to—to make sure that we have people who are trained interrogators so that we don't ever torture a prisoner ever again.

Obama: I give Senator McCain great credit on the torture issue, for having identified that as something that undermines our long-term security.

In an otherwise divisive campaign, the convergence of the two major party candidates' positions on the “torture issue” is itself notable. Their specific positions—Senator McCain's implicit acknowledgment that American interrogators had “tortured” detainees, Senator Obama's admission that the “torture issue” harmed U.S. interests, and both candidates' disavowal of the practice—represents an even greater political and cultural breakthrough. Four years earlier, in the aftermath of the political crisis sparked by the release of photographs taken at Abu Ghraib prison in Iraq, the Republican and Democrat presidential candidates and their debate moderators avoided the “torture word” (Rumsfeld 2004), the events that occurred at Abu Ghraib, and issues of detention and interrogation policy more generally. In fact, during the 2004 presidential debates, the

¹ The first McCain-Obama Presidential Debate took place on September 26, 2008 at the University of Mississippi in Oxford Mississippi (Commission on Presidential Debates 2009b).

word “torture” was used only once, by President Bush, and only in reference to Saddam Hussein’s use of torture against Iraqis.² During the final months of 2004, in other words, there existed no salient “torture issue” in mainstream American politics. Over the next four years, however, the recognition that America had tortured detainees during the wars in Afghanistan and Iraq moved from the periphery to the center of American politics. The torture issue had become a political fact.

It is tempting to view this development as one whose time had come. After all, the 2008 election was contested as a referendum on the Bush-Cheney White House (Jacobson 2009). In the months preceding the election, most national polls showed that less than thirty percent of the public approved of both George W. Bush’s performance as President (PollingReport.com 2010a) and Dick Cheney’s performance as Vice President (PollingReport.com 2010b). With public support for both the President and the Vice President so low, McCain and Obama both had much to gain from distinguishing their positions from those of the Bush-Cheney White House.³ We may, therefore, view McCain’s and Obama’s statements on torture as attempts to dramatize their distance from the sitting administration. Add to these political motives the two candidates’ personal stakes in the torture issue—Senator McCain’s status as a former-prisoner of war and a survivor of torture, Senator Obama’s as a professor of constitutional law—and we have a robust political and psychological explanation of the candidates’ rejections of torture.

² During the October 8, 2004 debate at Washington University in St. Louis, Missouri, President Bush stated that he did not believe that his decision to invade Iraq in March of 2003 was a mistake. In support of this decision, the President cited Saddam Hussein’s interest in pursuing weapons of mass destruction, Hussein’s hatred of America, Hussein’s past invasions of other countries, and Hussein’s use of torture against his own people (Commission on Presidential Debates 2009a).

³ In the months prior to the 2004 election, polls showed about as much public disapproval of President Bush as support (PollingReport.com 2010c).

As compelling as this commonsensical explanation of McCain's and Obama's stance on torture is, it is insufficient to account for the rise and persistence of the "torture issue" in American politics. Simply put, this explanation leaves out far too much. It leaves out, for instance, the political contests over the trickle of revelations about the treatment of detainees in U.S. custody. It also erases the expenditure of governmental resources, in the form of official investigations and congressional committee hearings, spent on studying and drawing public attention to the treatment of detainees and interrogation policies—that is, in producing, giving meaning to, and publicizing the "torture issue." Political problems have histories, even if they may be deployed strategically in political competitions.

Just as importantly, it is not clear that the political acknowledgment and disavowal of torture was an idea whose time had truly come. During the Republican primary, McCain proved himself an outlier amongst the Republican candidates by unequivocally rejecting waterboarding and other "enhanced interrogation" techniques as torture, a position that other leading candidates, such as Mitt Romney and Rudy Giuliani, were loathe to take.⁴ After the debates, after Senator Obama's November election victory, and after, even, President Obama signed an executive order revoking the CIA's ability to use interrogation techniques harsher than those described in the Army Field Manual

⁴ On May 15, 2007, Fox News moderated a debate amongst Republican presidential candidates in Columbia, South Carolina. During the debate, Brit Hume asked the candidates to consider whether they would authorize the use of enhanced interrogations in order to gain information about a large terrorist attack. Only Senator McCain described and rejected enhanced interrogations as torture. On November 28, 2007, CNN and YouTube jointly held a debate amongst Republican presidential candidates in St. Petersburg, Florida. During the debate, Mitt Romney refused to follow Senator McCain's public denunciation of waterboarding as torture, arguing that he did not believe it to be "wise for us to describe precisely what techniques we will use in interrogating people" (CNN.com 2007).

(Barack Obama 2009b), the “torture issue” remained—and, as of writing, remains—unresolved. Three years into Obama’s presidency, Americans continue to debate whether detention and interrogation practices during the Bush administration were legal and effective.

THE SOCIAL CONSTRUCTION OF TORTURE

The political controversies over detainee abuse, torture, and interrogation have taken place over time. The terms of these controversies, as well as their stakes, have, in turn, shifted over time. Taking these observations as its point of departure, this dissertation retrieves, documents, and analyzes the evolution of America’s “torture problem.” To do so, I examine the ways that relatively small, but influential groups of political elites—members of Congress and, particularly, members of the House and Senate Judiciary and the House and Senate Armed Services Committees—define and negotiate the contours of this problem. To study the evolution of torture as a political problem, I take a “constructionist stance” on torture. Such a stance means approaching torture not, merely, as the application of pain on a detained person, but as a discursive object, a referent of “torture talk” (Rejali 2008). This is primarily a study, then, not of torture as it is practiced, but of the language that American politicians use to talk about torture—the meanings, historical associations, and images that officials attach to torture.

A constructionist approach to torture allows us to understand how it is that torture becomes a matter of public concern—a political and social problem—in the first place. It is well-documented that social problems must be made. Social actors must draw attention

to evidence about the presence and harms of a problem; they must also define and characterize the problem (Best 2008; Edelman 1988; Jones and Baumgartner 2005; Holstein and Miller 2003; Spector and Kitsuse 1987). Moreover, public and political responses to indicators of social problems are rarely “proportional” to changes in those indicators (Jones and Baumgartner 2005:43–5). Problems that objective indicators suggest have significant social harms can be effectively ignored for extended periods of time; this is a core observation of Stanley Cohen’s (2001) work on denial. Conversely, “moral panics” occur around problems lacking evidence of harm (Cohen 1980; Goode and Ben-Yehuda 1994; Hall 1978).

It is worth noting that America’s torture problem was as intensely, if not more intensely, contested in the months preceding and following the 2008 election than before and after the 2004 election, even though many of the most controversial allegations of torture became public knowledge between 2004 and 2006. Political attention to the issues of detention, interrogation, and torture did not change incrementally, in proportion to changes in information regarding the practice. Congress largely overlooked problems in American detention and interrogation—including reports of detainee abuse at Metropolitan Detention Center in New York in late-2001, as well as March 2004 reports of detainee abuse at Abu Ghraib prison—until photographs taken at Abu Ghraib prison became public in April of 2004. These observations suggest the importance of studying the interplay between political interest in and claims about torture and the available evidence depicting the reality of the practice, rather than treating the relationship as determinate.

This point may be more clearly made by contrasting the constructionist stance to its counter. Studies that take an objectivist stance typically use representations of torture—survivor accounts, official investigations, human rights reports, and investigative reporting—as data that provide more or less transparent windows onto the underlying reality of the practice. Such studies have many laudable aims. By studying the historical and geographic distribution of torture, these studies have uncovered the social, cultural, political, and institutional conditions out of which torture emerges. For instance, in his recent study of torture, Darius Rejali (2007) documents the historical use of specific torture techniques to show that most contemporary torture practices are (1) designed to leave few physical marks, (2) have democratic origins, and (3) tend to spread through low-level networks, rather than from political and military elites to subordinates. By interviewing and examining victims of torture, such studies of torture also expose the social, psychic, and physical damage that torture causes its victims, as well as the efficacy of the medical and psychological treatment of victims (Goldfeld et al. 1988; Gorst-Unsworth and Goldenberg 1998; Basoglu 1992). And, by interviewing and examining perpetrators, such studies of torture also show that the practice has harmful consequences for those tasked with engaging it (Fanon 1963; Rejali 2007).

Given the lengths that modern states go to practice torture covertly, away from the gazes of human rights monitors, journalists, and citizens, the work of compiling evidence of the use and harms of torture remains necessary. This is particularly true at a moment when *what really happened* to detainees in U.S. custody remains contested. It may, then, strike the reader as peculiar, if not irresponsible, to commit myself to a constructionist

study of how political officials “construct” torture as an issue. Indeed, this research project begs several questions: Why study *talk* of torture, rather than take up the important work of documenting its use, the causes of its use, and its consequences? Would it not, in other words, be more appropriate to study this problem directly, to learn more about U.S. detention and interrogation operations, and to contribute to our understanding of how to control or prevent the abuse and torture of detainees? I am sympathetic to these questions, particularly since I too am interested in what really happened in American detention facilities and the consequences of those occurrences. Likewise, I accept the control and prevention of torture to be a political good.⁵

There is, however, convincing evidence that official accounts count (Orbuch 1997); that they are, in other words, consequential. Political discourse is caught up in the material world; it “creates perceptions and thus makes certain actions thinkable and possible and others not” (Wagner-Pacifici 1994:7; Jackson 2007b). Political discourse is entangled in the very social conditions—which Richard Crelinsten refers to as a “torture-sustaining reality” (Crelinsten 2003, 2005)—out of which torture emerges. Discourse may, by constructing and dehumanizing enemies, rationalizing violence, downplaying harm, and isolating incidents, neutralize laws and social norms against the practice (Sykes and Matza 1957). In so doing, political discourse may, intentionally or not, sustain the cultural, institutional, and social psychological environment in which torture thrives.

⁵ To admit this is to admit that my values and interests have influenced this research. Specifically, my interest in the topics of torture and violence and my interest in contributing to our collective understanding of the control of torture have directed me to particular questions about torture than to others. I have not, however, abandoned the objective of giving a truthful account of my data. Just as “the map-makers’ task is to produce [accurate!] maps that are pertinent to the enterprises and interests of their societies” (Kitcher 2001:59), I have endeavored to produce a sociological mapping of political “torture talk” (Rejali 2008) with the hope that it will be pertinent to our collective interest in preventing torture.

On the other hand, political talk of torture may, by challenging rationalizations and acknowledging harms, promote norms against torture and erode the cultural environment out of which torture had earlier emerged.

CONGRESSIONAL HEARINGS AS A STAGE FOR POLITICAL DISCOURSE

In this dissertation, I analyze political discourse in a particular public arena (Hilgartner and Bosk 1988): committee hearings held by the U.S. Congress. Specifically, I conducted a discourse analysis of the published transcripts of forty congressional hearings, held between 2003 and 2008, on detention and interrogation policy, as well as detainee abuse and torture, during the wars in Afghanistan and Iraq. Readers will find, however, that I draw, selectively, from other government and media texts. Political discourse is thoroughly inter-textual. Public officials frequently ground their arguments, explicitly and implicitly, in other textual accounts. I strive, throughout the dissertation, to identify the texts that provide the empirical grounds of political discourse of torture and reflect on the ways that those texts' particular representations of detention and interrogation influence political discourse.

Still, the overarching structure of this study and the majority of examples that I use to illustrate my claims derive from my analysis of congressional hearings. There are several reasons why hearings are particularly appropriate data for this study. During a committee hearing, representatives of both major parties—typically, the majority party's committee chair and the ranking member of the minority party—offer lengthy statements that seek to clarify or criticize the agenda of the committee's hearings. These statements

assign meaning to the topics covered in the hearing, articulate the stakes of the topics before the committee, and, because they are largely scripted, provide insight into the overarching paradigms in which political elites situate the facts of political problems (Babb 2009). Witnesses, too, offer scripted statements. Depending on the make-up of a witness panel, these statements may amplify the claims of one or both political parties or, conversely, offer unique vantages on the nature and importance of political problems. Opening statements, then, tend to signal the borders of political discourse.

Typically, statements are followed by lengthy periods of question-and-answer, in which each representative in attendance is allotted time to pose questions to or interrogate (Lynch and Bogen 1996), as the case may be, witnesses. During these exchanges, representatives and witnesses negotiate the facts and meaning of political problems and current events. At times, these negotiations result in the repetition of well-worn claims and beliefs. At other times, however, these negotiations may test incompatible facts and claims about a public issue. In these cases, the very reality and collective meaning of political problems and current events are at stake.

Hearings, more generally, are a proxy for congressional interest in topics. Hearings “must be arranged well in advance, and [...] usually represent a substantial commitment of effort” (Baumgartner and Bryan D. Jones 1993:90); they are, then, a indicators of congressional investment in an issue. Indeed, legislators themselves note the significance of hearings to the overall project of legislating (Boynton 1991) and hearings are one of the primary ways that Congress investigates and publicizes public problems and governmental misconduct (Palmer 2009; Richard C. Sachs 2004). Previous research

has also shown that congressional agendas are relatively independent of both the mainstream media's and the executive branch's agendas, suggesting that it is a unique site of political discourse that must be understood directly (Edwards III and B. Dan Wood 1999). Congressional hearings further result in the production of a public record to which *future* congressional investigations orient (Boynton 1991); they, thus, alter the conditions in which political discourse on an issue occurs.

Analytically, hearings provide public arenas (Hilgartner and Bosk 1988) and political stages for political elites to stage public problems and political crises (Alexander 2004). Congressional committees—and, in particular, committee chairs and majority party staffs—possess considerable material and symbolic power. By the timing of their hearings, the agendas of hearings, and by calling particular witnesses and not others, committees may influence the symbolic meaning of a problem and the discursive framework in which it is understood (Naples 1997).

Congressional committees are then intimately involved in the construction of social reality. Social theorists broadly recognize the power of the state to “produce and impose [...] categories of thought” on social reality (Bourdieu 1998:35). Significantly, this power also involves the coordination of materials and practices that permit the state to create “a standard grid whereby [social reality] could be centrally recorded and monitored” (Scott 1999:2). Such practices—for instance, those involved in the standardization of weights and measures or the surveying (and subsequent taxation) of land—are now routine (Loveman 2005). In their mundaneness, they also appear far from the state's use of torture, a practice typically viewed as extraordinary. And yet the

legibility of torture depends, in part, on an array of documentary practices. Congressional committees sometimes produce those very documents. The Senate Armed Services Committee (2009), for instance, produced an investigation of American detention and interrogation practices, the *Inquiry into the Treatment of Detainees in U.S. Custody*. In producing their inquiry, the Committee churned up layers of documents that partially represented the “behind-the-scenes” behavior of American officials. In this way, the Committee’s investigation made “legible” (Scott 1999) previously inscrutable zones of state conduct.

More frequently, though, congressional committees operate as “clearinghouses” of information or, as Bruno Latour (1987) refers to such sites, “centres of calculation.” On the stages provided by committee hearings, government and non-government experts testify about social problems and public issues; they offer statistics describing and analysis of those problems. Committee members amplify or refuse that information and, in some cases, incorporate it into their understandings of public problems (Bryan D. Jones and Baumgartner 2005). The information provided to and cited by committee members is not, by social scientific standards, always valid (Best 1990; Mucciaroni 2006). Still, by publicizing information, congressional committees participate in the construction of social problems and public issues. We find, in Congress’s hearings on issues of detention and interrogation, a public arena for the synthesis of expert knowledge, a social space in which torture becomes a meaningful, social object.

There are, however, limitations to the study of political discourse through congressional hearings and, in particular, their transcripts. Transcripts, like all

representations of reality, are partial (Riessman 1993); they leave out, that is, so much—non-verbal language, embodied performances, inflection, etc. This study privileges the overarching movements of political discourse and, at times, the interactive negotiation of meanings. For this reason, the use of transcripts is appropriate. However, I pursue this interest at the cost of providing a rich description of the conversational practices and non-verbal, performative aspects of political dramas.⁶ Political performances are also processed, and thus altered, through the media and actively interpreted by audiences (Alexander 2004; Payne 2008). While an analysis of congressional hearings provides insights into how public officials discursively construct and mobilize audiences (Lynch and Bogen 1996), it does not provide information on either the media's reception, transformation, and representation of discourse or audiences' responses.

The transcripts of hearings only partially preserve the background work by which congressional committees arranged hearings. Elements of the social organization of hearings are objectified in the timing, titles, and witness lists of hearings; I am attuned to what these components signal about how committees stage detention and interrogation as political problems. Beyond these expressions of the social organization of committee hearings, however, I am unable to draw conclusions about either the individual motives or the collective work that shaped the discursive frameworks of the hearings.

This point may be extended. I have designed this study to account for the construction of torture as a discursive object. For reasons identified above, congressional

⁶ Ethnomethodologists have provided rich descriptions of the conversational practices that produce political meanings, structure, and power (Lynch and Bogen 1996; Molotch and Boden 1985). Jeffrey Alexander (1988) and Leigh Payne (2008) have shown how non-verbal aspects of political performances influence the symbolic meaning of performances, as well as their public reception.

hearings are appropriate data for such a study and, by examining hearings, I hope to illuminate many of the factors that influenced the trajectory of Congress' construction work. These hearings, however, do not allow me to draw conclusions about the "motivating cause" of political behavior, "such as the shifting preferences of the ruling class" (Babb 2009:xiv). This is not simply a limitation of the data. Sociological theorists of elites, such as C. Wright Mills (1958) and G. William Domhoff (1970), are skeptical of the role of the U.S. Congress in effecting foreign policy. For those interested in the trajectory of U.S. foreign policies of detention and interrogation, this limitation may be lethal. More generally, those interested in the discursive conditions of torture might contend that studying executive discourse, particularly as expressed in memoranda, directives, and authorizations, would be more appropriate.

There are, however, good reasons to investigate discourse beyond that of the executive. For one, the contours of executive discourse are well-documented. In legal memoranda and public statements, administration officials and lawyers constructed the "war on terror" as an unprecedented struggle against a shadowy, barbaric enemy who refused to conform to the laws of war, who could resist traditional interrogation techniques, who would fabricate stories of abuse and torture, and who posed an existential threat to democratic civilization (Jackson 2007b; Hooks and Mosher 2005; Lazreg 2008). With this construction of the enemy as its discursive grounds, the administration argued that international laws of war did not apply to the U.S.'s war on terror and that American interrogators required, and could lawfully use, pain-inducing interrogation techniques to acquire the human intelligence necessary to prevent future

terrorist attacks. We know, however, far less about congressional discourse, the extent to which it amplified or challenged the administration's discourse, and *how* it accomplished its amplification or resistance.

There is, moreover, conflicting evidence about the role of ruling elites in authorizing and implementing torture. In his study of democratic torture, Rejali (2007) considers the possibility that, "democratic states are ruled by an elite who, for whatever reason, want to hide their exploitative state in the guise of a genuinely democratic government" and so authorize interrogators to use clean torture practices that are difficult to document (p. 411). Rejali finds, however, while "both political elites and level-level police and military have, at different times, initiated stealth torture," more commonly "torture began with the lower-downs, and was simply ignored by the higher ups" (p. 412). While the recent experience of the U.S. appears to be a notable exception to this—after all, "Secretary Rumsfeld ordered the use of clean techniques" (p. 412)—one must still ask why those who authorized torture named those practices "enhanced interrogation" and repeated that the U.S. "does not torture" (Associated Press 2005a; BBC News 2005). "And that," as Rejali (2007) concludes, "brings one back to the fact that they believe they are being watched and judged by others in how well they respect human rights and they believe at least a thin veneer of legitimacy is necessary" (p. 411–12). Those who watch the executive may not, as elites are said to, shape "events from invulnerable positions behind the scenes" (Domhoff 1970:113). Still, the fact of their watching and their discursive attachment of political legitimacy to human rights appears to modify or mediate elite behavior.

An analysis of congressional discourse provides insight into one of the institutions that monitors the executive's behavior. Compared with the work of human rights monitors, however, Congress' response to torture is uneven. Congress may refuse to monitor the executive, believing torture appropriate. It may collaborate with the executive to maintain a facade of legitimacy by performing "oversight" of torture without implicating those who authorized the practices. Congress may, on the other hand, participate in the production of anti-torture discourse, shifting the cultural and political grounds on which the executive considers detention and interrogation policy. By examining the shifts that occurred in congressional discourse between 2003 and 2008, this dissertation is well-suited to account for the political conditions that sustain particular congressional stances toward the executive.

There is, however, something that haunts this study: In modernized states, particularly democracies, torture is but one form of violence and, perhaps, a peripheral form at that. Writing in the mid-1970s, Randall Collins (1974) made a similar claim about the highly-publicized atrocities of the Vietnam War: "Not only were the more publicized incidents—the My Lai massacre and a few others—minor by comparison to the several million casualties of the indiscriminate bombing campaigns throughout South Vietnam, but they are uncharacteristic of the fundamental nature of the atrocities" (p. 434; see also Asad 1997). Organized violence in modernized societies tends to be "callous" according to Collins. Callous cruelty, which I discuss further in the subsequent chapters, differs from torture, which Collins categorizes as "ferocious cruelty," by its impersonality, its technological sophistication, and its rationality. The U.S.'s recent use

of violence globally—in Afghanistan, Iraq, and now Pakistan, Somalia, Yemen, and Libya—generally does appear callous; “shock and awe,” bombing campaigns, and drone strikes have produced exponentially more suffering than have the U.S.’s detention and interrogation policies. Perhaps then we should view the scandal provoked by torture with considerable skepticism, as collective misdirection away from the actual operation of state violence (Baudrillard 2001).

These observations, however, might provoke a different response. They could inform an empirical research agenda oriented around many of the same questions that I have posed of political discourse of torture: How does callously-organized violence become a socially recognized fact and, subsequently, problem? Or how is the fact of callous cruelty suppressed? What textual and visual accounts constitute the “reality” of that violence—the suffering and casualties it causes take—and how do those accounts operate in discourse? Under what conditions do political elites acknowledge such forms of violence as illegitimate? If it is true that members of modernized states find it more difficult to perceive callous cruelty as atrocity than torture then the answer to these questions are all the more pressing.

At the same time, I do not think that these observations erode the empirical or practical-moral value of studying political discourses of torture. Since at least the Gulf War, war appears, in American political and media discourse, as technological and bureaucratic spectacle in which the “objects of violence are unknown and distant” (Taylor 1998:157). American torture, on the other hand, has often been encountered as a spectacle in which suffering human bodies are visible, described, and scrutinized. As a

case, political discourse of torture provides a unique site for empirically investigating how the suffering of the global others of American violence enters or, on conversely, is excluded from discourse. It provides, too, an opportunity to reflect on the ethical responsibilities and political possibilities of assimilating knowledge of atrocity.

Analyzing Congressional Discourse: A Note on Method and Methodology

This dissertation is based on a discourse analysis of talk about detention, interrogation, detainee abuse, and torture in the U.S. Congress. Discourse analysis involves the “structured and systematic study of texts” to discern how those texts “contribute to the constitution of social reality by *making* meaning” (Phillips 2002:4). More specifically, the discourse analyst explores “how socially produced ideas and objects that populate the world were created in the first place and how they are maintained and held in place over time” (Phillips 2002:6). Attuned to both the meaning, or content, of texts and their social production, discourse analysis permits me to document the shifting contours of political definitions of detainee abuse and torture, as well as the social processes that produced those definitions and the political and cultural contexts that enabled them.

As a research method, discourse analysis emphasizes features of the research process typical of qualitative research, including qualitative-approaches to content and textual analysis. A qualitative approach to textual analysis tends to be performed not on “randomly sampled data but strategically selected case studies” (Roberts 1997:3). This permits the analyst to evaluate the particular expressions of discourse most relevant to his or her research topic and questions. In this study, I have selected congressional

committee hearings called to review allegations of detainee abuse or executive branch policies of detention and interrogation. I have not, in other words, produced a random sample of all congressional references to relevant issues. There are, however, sound reasons for narrowing my analytic focus to congressional hearings. Discourse in these hearings, unlike in broader oversight or confirmation hearings, is saturated by torture talk. And, unlike statements that appear in the congressional record, they are systematically and socially arranged around core topics. By limiting the analysis to congressional hearings, I am able to provide in-depth analysis of political discourse of torture and commentary on how hearings, as an expression of political power and social activity, influence that discourse.

Discourse analysis is also particularly well-suited to the contingencies of studying congressional hearings. The transcripts of congressional hearings are, in important ways, records of social activity. The activity of meaning-making is represented in the exchanges between witnesses and committee members. Discourse and qualitative textual analysis allows for analysis of text “much like an ethnographer's technique for analyzing his or her field notes” (Jerolmack 2008:76; see also Chang and Mehan 2008). The approach, then, allows for a rich study of torture talk. It permitted me to document the content of congressional discourse—the forms of denial and specific claims employed at given moments. It also allowed me to analyze the interpretive work, such as exchanges between hearing participants, that sustain particular accounts and claims within political discourse. Given the relative paucity of existing studies of discourses of torture, a qualitative approach also allowed me to develop codes and themes inductively (Altheide 1987;

Hsieh and Shannon 2005); indeed, these emerged from my sustained engagement with my data, with research on torture, culture, and knowledge, and with public discourse on the “torture issue” more generally.

By allowing the analyst to take an ethnographic stance toward texts, discourse analysis further permits the researcher to uncover how texts relate to context (Phillips 2002), a topic that I discuss at length in Chapter 1. Congressional discourse, particularly on the stage of committee hearings, occurs within an organizational, political, and cultural context. Hearings, as noted above, are arranged affairs and the discourse that occurs within them bares a relation to the organizational work that produced the hearings. By situating congressional discourse within its institutional and political context, this study demonstrates that three factors drove changes in discourse: (1) political power, as expressed in the control of congressional committees, (2) political projects that provide the interpretive frames in which American officials situate torture, and (3) textual realities, which are the accounts of American detention and interrogation practices that American officials “read through” to the “reality” of those practices (Smith 1990b). I further show that political discourse of torture occurs within a broader, cultural context that provides a code of liberal and illiberal violence. This code provides a relatively stable, dichotomous structure in which state violence appears legitimate so long as it is instrumentally and clinically organized. Claims about the appropriateness and legality of American detention and interrogation practices oriented to this structure.

As the ensuing chapters make clear, these factors are not necessarily distinct. Political power, for instances, provides access to the material and symbolic resources

necessary to initiate congressional investigations—and, thus, produce textual realities—and to stage political performances that favor particular interpretive frameworks and not others. Moreover, through discursive practices, American officials actively employ these interpretive resources. For instance, in debates about waterboarding, critics of the Bush administration attempted to code the practice as a form of counter-democratic, illiberal cruelty. They did so by comparing the practice to forms of torture used during the Spanish Inquisition. Proponents, on the other hand, drew attention to distinctions between waterboarding and Inquisition torture to challenge such comparisons. The relation between context and discourse is reflexive, rather than deterministic (Bogard 2003; Holstein and Gubrium 2003). Actors creatively and strategically bring contextual resources to bear in discourse, employing the resources to bolster their own or cast doubt on competing accounts of American detention and interrogation practices.

OVERVIEW

Chapter 1, “To Give an Account of Torture,” situates American political discourse of torture within its cultural and social context. Within Western liberal democracies, torture arrives on the political scene with a knot of associations and images that constitute it as a form of atavistic cruelty. Torture’s counter-democratic coding dates to the eighteenth and nineteenth centuries. During this period, broad legal and social changes promoted both the legal abolition of torture and its moralization. Given torture’s presence in a counter-democratic cultural code, contemporary democracies tend to use torture in secret and employ several, well-worn forms of denial when responding to allegations. After

reviewing the social and cultural processes that led to the moralization of torture, I present Stanley Cohen's (2001) typology of official denial. I then present a sociological framework for understanding how political and social contexts mediate official's discourse of denial. Drawing from work in the sociology of knowledge and the sociology of social problems, I elaborate a framework attuned to the role of evidence, in the form of textual realities, in political discourse. Textual realities are accounts that officials "read through" (Smith 1990b) to the "objective" reality of detention and interrogation. Textual realities provide the empirical grounds for claims about the nature of American detention and interrogation. Significantly, though, textual realities are partial; even if designed to accurately describe detention and interrogation in good faith, they reduce the complexity of these practices. Because of this, it is necessary to examine what textual realities make "visible" and what they obscure. Specifically, I contend that the discourse of denial is sustained by textual realities that screen out the disorders and excesses of torture—the improvisations of torturers, the suffering of the tortured body—and that, thus, neutralize the association of torture with atavistic cruelty. Finally, I consider the importance of interpretive frameworks on government responses to human rights allegations.

Chapters 2–6 present my analysis of congressional discourse of torture. The chapters are, roughly speaking, organized chronologically. This allows me to trace the shifting contours of political discourse. It also permits me to account for these shifts by drawing attention to the dynamics of contextual factors—knowledge, as expressed in textual realities, and interpretive frameworks—that influence discourse.

Chapter 2, “The Heartbreak of Acknowledgment: Abu Ghraib, MDC, and the Context of Crisis,” presents a comparison of two instances of detainee abuse to understand why some documented abuses may be easily downplayed and justified, while others require significant political work to accommodate. Specifically, I compare congressional responses to the abuse of the so-called “September 11 detainees” at Metropolitan Detention Facility (MDC) in Brooklyn, NY to congressional responses to the release of photographs taken at Abu Ghraib prison in Iraq. While the latter incident provoked a significant political crisis, the abuse at MDC was treated a mundane, non-consequential occurrence. Extending the framework articulated in Chapter 1, I show how the textual realities that represented the abuse at MDC and Abu Ghraib influenced congressional responses. Specifically, the abuse at MDC was, when Congress first considered it, verbally alleged by victims and, significantly, verbally denied by the accused perpetrators. This permitted participants in a Senate Judiciary Committee hearing on the abuse to express doubt that the abuse had occurred. The violence at Abu Ghraib, on the other hand, was represented in digital photographs that secured a reality of the violence and foreclosed its outright denial. I further demonstrate that Congress understood the abuses at MDC and Abu Ghraib within dramatically different interpretive contexts. Congress largely understood the abuse of detainees at MDC as occurring in the chaotic wake of September 11 terrorist attacks when aggressive actions were necessary and justified so as to prevent future terrorist attacks. This framing provided participants in the Senate Judiciary’s hearing on MDC with powerful rationalizations for the mistreatment of the “September 11 detainees”. Congress, conversely, framed the abuses

at Abu Ghraib within the context of the Iraq war, the improvement of human rights in Iraq, and the precarious political relationships required to win the war. Within this framework, the American abuse of detainees at Abu Ghraib appeared a disruptive force, a threat to the war's legitimacy and to the bonds that tethered American public support and Iraqi "hearts and minds" to the war.

Chapters 3 and 4 build on Chapter 2 by following the process by which Senate Republicans and Department of Defense witnesses attempted to resolve the crisis provoked by the release of the Abu Ghraib photographs by geographically isolating Abu Ghraib and construing it as the result of a "few bad apples."

Chapter 3, "The Construction of an Isolated Incident," examines the process by which participants in hearings held by the Senate Armed Services Committee on Abu Ghraib geographically isolated the photographed violence from the "widespread abuse" that occurred around it. I show that detainee abuse took on a geographic dimension gradually through the production of textual realities that provided accounts of American detention operations throughout Iraq, Afghanistan, and Guantánamo. Specifically, in May, 2004, the release, first, of the Abu Ghraib photographs and, then, an International Committee of the Red Cross report secured "widespread abuse" in Iraq as a political reality. Senate Democrats pushed this claim against the denials of Pentagon and military officials. Subsequently, however, the Department of Defense produced and released a series of investigations that provided the empirical grounds for officials to claims that, while widespread abuse occurred throughout Iraq, Abu Ghraib was an isolated incident, unrepresentative of the violence elsewhere.

Chapter 4 examines the interpretive work and resources that permitted military and Pentagon officials, as well as Senate Republicans, to causally isolate Abu Ghraib. Specifically, I document how military and political officials construed the violence at Abu Ghraib as a result of local conditions and actors at Abu Ghraib. In 2004, the dominant political account for the violence Abu Ghraib emphasized that officials interrogation policies authorized by the Secretary of Defense, Donald Rumsfeld, had “migrated” to Abu Ghraib. These policies were designed for use at Guantánamo; significantly, they permitted pain-inducing interrogation practices, including some—hooding and stress positions, for instance—used and photographed at Abu Ghraib. This fact, however, was insufficient to implicate Rumsfeld and the policies for Guantánamo in the politically toxic violence at Abu Ghraib. Because, in 2004, no significant instances of abuse were publicly and politically recognized at Guantánamo, American officials reasoned that the causes of the Abu Ghraib violence were particular to the prison and did not represent significant problems with American detention and interrogation policies.

The portrayal of Abu Ghraib as an isolated incident involved, in part, a juxtaposition of the violence at the prison to the absence of similar violence at the detention center at Guantánamo Bay. Chapter 5 shows how, in late-2004 and 2005, the political image of Guantánamo transformed. The release of FBI emails documenting abuse and torture at Guantánamo and, then, the release of a military interrogation log of Mohammed al-Qahtani suggested that significant instances of abuse, comparable to those at Abu Ghraib, had occurred at Guantánamo. Contrary to the conclusions drawn in 2004, this suggested that official policy bore a meaningful relation to significant instances of

abuse. This chapter examines the interpretive work surrounding these documents and, in particular, the work done to maintain the image of Guantánamo as “Honor Bound.”

Chapter 6 examines political discourse surrounding waterboarding in 2007 and 2008. The chapter demonstrates that the political discourse of waterboarding and “enhanced interrogation” more generally oriented toward a representation lacuna in public knowledge about the practice. Because the CIA destroyed—and admitted destroying—videotapes of its interrogations, American politicians competed to define the nature, or underlying reality, of the practice. This competition reveals the structuring influence of a liberal ideology of torture that legitimates torture by distancing it from its illiberal associations. Specifically, proponents of waterboarding attempted to construe the practice as instrumentally and clinically used. Opponents, however, attempted to construe the practice as counter-democratic by associating the practice with illiberal regimes that, historically, used water torture. Finally, this chapter demonstrates how the 2006 mid-term election reconfigured political power, permitting congressional democrats to employ the power of committees to broaden the discursive scope of hearings. By incorporating legal scholars, human rights workers, and former-members of the executive critical of the Bush administration’s policies, the Democratic Committees further elevated human rights and the rule of law as interpretive frames in political debate about torture.

I conclude the study by reflecting on the partiality of political discourse of torture. I argue that the emergence of a critical discourse of torture, which acknowledged American interrogation practices as “torture” and recognized the harms of those interrogation policies on U.S. interest, was a precarious and important accomplishment.

The emergence of this discourse is a testament to both the work of the Democratic Congress in 2007 and 2008, as well as to the contingent events largely outside Congress' control: Supreme Court decisions, leaks of information to the press, and the absence of terrorist attacks. I argue, however, that even this discourse suffers from significant limitations. The Democrat's critical discourse of torture derives its symbolic power by maintaining a binary structure of meaning that codes torture as thoroughly counter-democratic. Democratic histories of torture are absent from this code; in it, torture appears an exceptional breach in democratic politics and institutions caused not by a "few bad apples," but a "few bad policy-makers." The discourse, then, overlooks the institutional and cultural origins of torture and the extent to which the social organization of state violence instigates processes—the dehumanization of the other, for instance—that are part and parcel of a torture-sustaining reality. The Democrat's critical discourse of torture furthermore excludes the other's of American violence, the survivors of torture, from discourse. In it, the harms of torture rebound off the body of torture's victims and on to the American body politic: We are weaker, less secure, for having tortured; our global image has eroded. As such, this discourse avoids the possible encounter between self and other that the public debate about torture might have permitted. I close by reflecting on the possibilities of such an encounter, highlighting the work of Physicians for Human Rights to produce a discursive space in which survivors of torture can testify about their suffering.

1. To Give an Account of Torture

On May 4, 2004, Secretary of Defense Donald Rumsfeld (2004) held a press briefing on the abuse of detainees at Abu Ghraib prison in Iraq. During the briefing, Rumsfeld was asked about the United States military's position on torture.

Mr. Secretary, a number of times from the podium you've said U.S. troops do not torture individuals. There was a joking colloquy one time here about the iron maiden, remarks—I mean, does this report undercut your notion that the U.S. doesn't torture, this is—is this one of those rare exceptions here that torture took place?

In his response, Rumsfeld denied that the violence at Abu Ghraib constituted torture—
"My impression is that what has been charged thus far is abuse, which I believe technically is different from torture"—before concluding, "I don't know if the—it is correct to say what you just said, that torture has taken place, or that there's been a conviction for torture. And therefore I'm not going to address the torture word."

Rumsfeld's nimble response is a form of denial that the sociologist Stanley Cohen (2001) refers to as "interpretive." By casting instances of violence as "abuse" rather than "torture," Rumsfeld sought to neutralize the legal implications and moral associations that the latter form of state violence carries. Indeed, torture is the "threshold of outrage" of contemporary democracies (Malise Ruthven as quoted in Peters 1985:151) and the "term has acquired an enormous degree of opprobrium over the past two centuries" (Peters 2005). There is, in other words, a strong, cultural incentive for governments to deny, downplay, and rationalize allegations of torture. This chapter identifies the sources of that cultural incentive, locating it in developments in 18th-century European legal and moral change. I then review the forms of denial that governments typically use to

neutralize allegations of torture. I conclude by situating official denial within a broader, sociological framework.

TORTURE AS A CULTURAL OBJECT

The word “torture” may be defined as a practice—the use of pain by public officials against a detained person. Torture, however, is also a cultural object, one that has a lengthy and important history in Western imaginations. Indeed, “torture” refers not only to particular practices but to a knot of associations and images that give torture its contemporary meaning. Darius Rejali (2007) characterizes these associations—which encode torture as antithetical to liberal democracy—as the “modern memory” of torture. They are, however, not so modern: As Rejali puts it, the modern memory of torture is “a blissful nineteenth-century memory residing untouched by the horrors of the twentieth century” (p. 538). In this section, I review the cultural production of the “blissful memory” cultural code that gives torture its contemporary meaning. I then show how this cultural code influences governmental responses to human rights norms.

Abolition and the Moralization of Torture

Between the mid-eighteenth and nineteenth centuries, most nations of Europe abolished judicial torture, “the use of physical coercion by officers of the state in order to gather evidence for judicial proceedings” (Langbein 1977:3). Orbiting the development was a second one: torture moved from a “specifically legal vocabulary [...] into a general vocabulary of moral invective” (Peters 1985:150). The moral vocabulary of torture,

which emerged out of Enlightenment critiques of the practice, lacked such specificity, as well as the legal vocabulary's neutrality. In the new vocabulary, torture became encoded as antithetic to human progress and dignity. Cesare Beccaria (1986), in his 1764 treatise *On Crimes and Punishments*, listed torture as one of the legal practices that emanated "out of the most barbarous ages" and described its persistence in Europe through the eighteenth century as "an enduring monument to the ancient and savage legislation of an age when ordeals by fires and boiling water and the uncertain outcome of armed combat were called 'judgments of gods'" (p. 30). Voltaire (2007) offered a comparable condemnation of the practice that similarly coded torture as antithetical to modern sensibilities.

Foreign nations judge France by its plays, novels and pretty poetry; by its opera girls, who are very gentle of manner; by its opera dancers, who are graceful [...] They do not know that there is no nation more fundamentally cruel than the French. The Russians were considered barbarians in 1700, and it is now only 1769; an Empress has just given to that vast state laws...[t]he most remarkable is universal tolerance; the next is the abolition of torture. Justice and humanity guided her pen: She has reformed everything. Woe unto the nation which, though long civilized is still led by ancient atrocious customs! (p. 37)

The association of torture with "the most barbarous ages" and "ancient atrocious customs" has profoundly impacted modern understandings of torture. In the nineteenth century, studies of the practice often described its legal prohibition in the moral vocabulary's terms. Historian Henry C. Lea (1866), for instance, described the practice as "relic of medieval barbarism" (p. 386). A contemporary, W.E.H. Lecky (1866), used comparable language to describe torture's abolition:

Torture was abolished because in the progress of civilization the sympathies of men became more expansive, their perceptions of the sufferings of others more acute, their judgments more indulgent, their actions more gentle. To subject even

a guilty man to the horrors of the rack seemed atrocious and barbarous, and therefore the rack was destroyed. (p. 335)

This cultural coding of torture persisted into the 20th century. The historian Edward Peters (1985) documents the code's particularly acute resonance with international actors after World War II, whom he describes as endeavoring to achieve "a new Enlightenment, one with universal civil and political (as well as social and economic) consequences for all people" (p. 144). Indeed, the liberal principles—such as the inherent dignity and inalienable rights of all humans—have been inscribed into international declarations and treaties that prohibit torture, such as the United Nations' *Universal Declaration of Human Rights* (1948) and its *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (1984). The association of cruelty and torture with an illiberal past survived, then, the atrocities of the Second World War. The *Universal Declaration*, adopted three years after the end of World War II, noted that "disregard and contempt for human rights have resulted in barbarous acts." This is a subtle, perhaps non-controversial description, of the violence of the first four decades of the twentieth century. To describe violations of human rights as barbarous, though, is to employ a word heavy with social otherness (Foucault 2003; Llorente 2002).

Other, more specific statements on the nature of torture circulated in the background from which international instruments prohibiting torture emerged. F.S. Cocks, a contributor to a draft of *The European Convention of Human Rights*—which, in 1953, established the European Court of Human Rights—proposed language for the *Convention* that echoed Lea's:

All forms of torture, whether inflicted by the policy, military authorities, members of private organisations or any other persons are inconsistent with civilized society, are offences against heaven and humanity and must be prohibited. [...] [The Consultative Assembly] believe that it would be better even for Society to perish than for it to permit this *relict of barbarism* to remain. (F.S. Cocks in Peters 1985:146; emphasis mine)

For many the atrocities of the Second World War solidified, rather than eroded, the cultural meaning of torture as antithetical to modernity. Rejali (2007) documents the emergence of a “modern memory” of torture following the war. This “memory” involved collective amnesia surrounding democratic histories and innovations of torture and a collective remembrance of, if not pre-occupation with, Nazi and Soviet practices. As this dissertation and particularly the seventh chapter show, this modern memory is, in contemporary American political discourse, broader: Remembered with Nazi and Soviet atrocities are those of Imperial Japan, the Communist interrogators of the Korean War and the Khmer Rouge, Iran, and Iraq. The American memory of torture is also deep; it recalls, too, the water tortures of the Spanish Inquisition. Still, a generalizable point holds: The modern memory of torture in democracies disavows the practice’s compatibility with liberal values and democratic governance.

Indeed, the emergence of a moral vocabulary of torture, the institutionalization of natural law and liberalism (Hajjar 2009), and the discursive association of torture with past and barbarous arrangements of domination produced a cultural binary that code torture as antithetical to modern and, in particular, liberal, sensibilities (Alexander and Smith 1993; Smith 1991). In this arrangement, one could not have both modernity and torture; the appearance of the latter signaled an evolutionary regression, a deviation from the forward-motion of human progress.

THE AMBIGUOUS LEGACY OF THE MORAL VOCABULARY OF TORTURE

As an account of the legal prohibition and subsequent historical persistence of torture, the moral vocabulary's "humanitarian-progressivist model" (Peters 1985:77) fails to hold up to social scientific scrutiny. At the same time, there is evidence that, as a cultural structure, this model has had a profound, albeit ambiguous, legacy on contemporary conceptions and collective responses to torture.

The abolition of judicial torture and the emergence of a moral vocabulary of torture did not, in fact, vanquish the practice. Instead, the practice went elsewhere, from judicial proceedings to "the hidden interrogation rooms of police stations, in the personal interaction between guard and prisoner" (Collins 1974:431). Lea (1892), in fact, observed this, documenting a case in Switzerland "in which, a man suspected of theft was put on bread and water from Oct. 26th to Nov. 10th, 1869, to extort confession, and when this failed he was subjected to thumb-screws and beaten with rods" (p. 457). Still, Lea remained optimistic that modern, humanistic sentiments would immunize society to torture: "It is to be hoped that the scandal caused by the development of this barbarism may render its repetition impossible" (p. 457).

The twentieth-century, however, would not oblige. In the United States, a commission appointed by President Hoover to review law enforcement practices documented widespread use of the "third degree"—prolonged interrogations for hours or days, sleep deprivation, water tortures, stress positions, beatings, sensory manipulation, and electricity to extract confessions (Rejali 2007)—by American rural and urban police

in the late 1920's (U.S. National Commission on Law Observance and Enforcement 1931:3). Writing in 1959, Jean-Paul Sartre (2001) offered a litany of European nations—Hungary, Poland, the Soviet Union—that had, since the Second World War, employed torture. Cutting himself off, Sartre concluded with resignation: “I could go on: today it is Cyprus and it is Algeria; all in all, Hitler was just a forerunner” (p. 35). Less than two decades later, Amnesty International (1975) published its first international study of torture and found that the practice had “developed a life of its own and become a social cancer” (p. 7); it was, the organization found, “a practice encouraged by some governments and tolerated by others in an increasingly large number of countries” (p. 7).

Amnesty International's subsequent annual studies of human rights have consistently documented torture in over one-hundred nations (van Reenen and Dan Jones 1996). Although this figure now appears to be on the decline, the organization (2009) documented torture in half of the one-hundred and fifty seven nations they scrutinized in their 2009 report, including fourteen G20 nations. America's use of torture during the wars in Afghanistan and Iraq represents only the most recent example of a democracy relying on the practice; in this, America follows Israel's use of torture against Palestinians, England's against members of the I.R.A., and France's use of it in Algeria (Lazreg 2008; Einolf 2007). Torture also appeared in the toolkit of American interrogators in Vietnam and, at the turn of the 20th century, in the Philippines. Clearly, neither modernity (Rejali 1994; Bauman 2000) nor democracy (Rejali 2007) guarantees that a state will conform to international human rights norms prohibiting the use of torture.

Sociological explanations of the persistence of torture show that its modern practice has roots in mundane features of the institutions—the military, the police, and the prison—in which it most frequently occurs. The high-degree of autonomy of these institutions buffers their officers from cultural norms, international laws, and the coercive gaze of social control agents (Peters 1985; Rejali 2007). The result is that the goals that members of each institution pursue are severed from the socially legitimate means of pursuing them (cf. Merton 1938; Vaughan 1985). Interrogators may pursue human intelligence, police confessions, and members of each institution social control by “any means necessary” (Brown 2005; Avery F. Gordon 2006; Lazreg 2008; Peters 1985; Rejali 2007). Within the context of modern, counter-insurgency warfare, this institutional impetus to torture is intensified by the demand for human intelligence (Einolf 2007; Lazreg 2008; Rejali 2007). The impetus to torture is also intensified by the everyday reality of these institutions. Torturers may have undergone a period of training intended to socialize them out of “normal moral restraints” (Crelinsten 2003, 2005; Gibson and Haritos-Fatouros 1986). Such institutions also tend to organize their members into intensely bound groups and pit their members against a culturally devalued, if not dehumanized, social other or enemy, increasing the likelihood that the social context may call out interpersonal violence (Fiske, Harris, and Cuddy 2004; Haney, Banks, and Zimbardo 1973; Hooks and Mosher 2005). Such studies further suggest that the “sympathies” that W.E.H. Lecky presumed are, in fact, socially structured, liable to contract in times of crisis and stress.

Significantly, sociological explanations of the persistence of torture do not, as nineteenth century historians tended to, describe the appearance of torture in modern society as a reappearance of atavistic barbarism, but as the outcome of modern social relations and forms of power. Nor do social scientists continue to understand the prohibition of torture in Europe in the seventeenth and eighteenth centuries in the terms of the moral vocabulary. Instead, social scientists now view the legal prohibition of torture as the outcome of significant social and legal developments during the same time period.

A trio of studies published in the mid-1970s, Randall Collin's (1974) "The Three Faces of Cruelty," John Langbein's (1977) *Torture and the Law of Proof*, and Michel Foucault's (1995) *Discipline and Punish* drove the social sciences' turn away from the humanitarian-progressivist model as an explanation for the abolition of judicial torture in Europe. Although these studies differ in important ways, each of them portrayed the humanitarian-progressivist model as an insufficient, if not misleading account of the decline of torture. The account mistakes the decline of judicial torture for an overall decline in cruelty; it cannot account, then, for changes in the ways that violence and power continue to be exercised (Collins 1974; Foucault 1995). In fact, in each of their studies, Collins, Langbein, and Foucault explicitly dismissed variants of this model. Collins (1974) rejected evolutionary views of social development that emphasized "the gradual extension of the collective conscience and an upgrading of moral obligations" (p. 418). Such a view can not be squared with empirical evidence concerning violence, which showed that specific forms of violence ebbed and rose as the structure of social

relations changed. Foucault (1995) insisted that the rational and moralistic arguments of the “great reformers” (p. 75) had to be understood within their historical and legal context, which included changes in crime, developments in penal sanctions, and transformations in the mechanisms of power. Of the three, Langbein (1977) dismissal is impressive for its bluntness, as Langbein described the traditional account of abolition as a “fairy tale” (p. 10) before criticizing the humanist-progressive model:

The eighteenth-century writers were advancing arguments against torture that had been known for centuries. It seems unpersuasive to say that the abolition critique became decisive in the eighteenth century when it had been brushed aside in the seventeenth century and before, even allowing for the changed world view that we customarily call the Enlightenment. To say that abolition was an idea whose time had come is to beg the question, why had it come? (p. 11)

Why *had* abolition come? Each of these studies offered powerful and convincing alternative accounts for the abolition of torture. Collins argued that torture depends on ritual boundaries between groups that set limits on moral commitments amongst members. Such boundaries permit violence to be perpetrated against those outside it and are simultaneously dramatized by that violence. Modernization—“urbanism, mass transportation, large-scale work and business organizations, mass education” (Collins 1974:431)—tend to weaken ritual boundaries between groups, as they produce “ritual comembership” (p. 431); bureaucratization, meanwhile, tends to depersonalize violence, so that cruelty is “callous,” the outcome of rational and instrumental decisions. These simultaneous developments have the effect of undermining the conditions necessary for torture and help explain its relative decline, as a public form of social control, in Europe.

Langbein, on the other hand, offers a legalistic account of the demise of judicial torture. Developments in the law of proof transformed the measure of legal guilt from a

binary to a continuum. Torture thrived in a legal setting in which available punishment was severe and, to “make the judgment of men palatable” when God had earlier rendered judgments, the guilt of the accused required “standards of proof so high that no one would be concerned that God was no longer being asked to resolve the doubts” (Langbein 1977:7). To find an accused guilty, then, would require “full proof” (Langbein 1977:47). Confession, which torture often produced, qualified as such proof. As the nations of Europe adopted penal sanctions of lesser severity, proof and, thus, guilt, no longer needed to be “full.” Instead, courts began convicting the accused with lesser proof and, then, punishing the (less) guilty with a lesser sanction. Torture had become ““superfluous for condemnation, because someone who is suspected can be punished without being brought to confession”” (Josef von Sonnenfels as quoted in Langbein 1977:63).

Foucault’s explanation of the decline of torture may be the best known of the three. Like Langbein, Foucault noted that the rise of alternative, less sanguine penal sanctions opened a legal space into which torture might dissolve. Like Collins, Foucault emphasized transformations in the nature of social relations as the engine driving the change. The decline of torture corresponded with the rise of new “mechanisms” or “technologies” of power: the prison, the reformatory, the school and barracks. These transported the nexus of power from the body of citizens to their personalities and subjectivity. Indeed, modern punishment aimed to correct the condemned by “perpetual observation,” “perpetual assessment,” and perpetual surveillance of “the body, time, everyday gestures and activities” (Foucault 1995:128).

The works of Collins, Langbein, and Foucault have freed social scientists to offer multi-causal explanations for the abolition of torture. Stephen Pfohl (1994), for instance, situates the decline of pre-eighteenth century penal practices within a broadly sociohistorical framework that includes demographic, political, economic, religious, and intellectual developments. Pfohl's analysis of European torture also anticipates an explanation of its decline tethered to changes in perceptions of pain. Pre-abolition, torture thrived because European attitudes toward pain downplayed the significance of the body; "in a world which gave primacy to supernatural imagery there was little profit in preserving the body at the expense of the soul" (Pfohl 1994:25). Subsequent changes to Western conceptions of the body permitted the decline of torture:

[A] new sensibility now exists regarding physical pain. Although it occurs frequently enough in our time, the modern conscience regards the inflicting of pain without "good reason" (to perform a medical operation, for instance) as reprehensible and therefore as an object of moral condemnation. (Asad 1997:290; Silverman 2001)

Although the "humanist-progressivist model" may not provide a good guide to what it purports to explain—the legal prohibition of torture—the eighteenth century coding of torture as a form of atavistic cruelty continues to have a profound, albeit ambiguous, influence on state behavior. This coding, as noted above, was built into significant modern conventions on human rights and torture. Around such documents, an array of public and official auditors of state behavior have developed (Rejali 2007); these auditors attempt to influence state behavior by documenting incidents of human rights violence, attempting domestic and foreign "moral consciousness-raising," and mobilizing institutional and grassroots pressure (Risse and Sikkink 1999:5). Frequently, such efforts

involve the mobilization of the illiberal associations of human rights violations to “shame” an offending state into conforming to international human right norms (Goodman and Jinks 2004; Risse 1999; Shor 2008). In response, many nations that torture and most democracies that torture now attempt to do so secretly and with techniques that leave few physical marks (Rejali 2007). The use of markless torture techniques make it difficult for human rights monitors to document human rights violations and allow a state to maintain international legitimacy by *appearing* to conform to human rights norms.⁷

The Rhetoric of Denial

The institutionalization of the moral vocabulary has had a second effect: when allegations of torture become public, governments, and particularly liberal democracies, tend to employ a “rhetoric of denial” (Asad 1997:290) to minimize the harmful effects of allegations. Stanley Cohen (2001) finds that official responses to allegations of human rights violations, including torture, involve three types of denial: literal, interpretive, and implicatory. Cohen’s research also suggests that governments often find it difficult to sustain denial. Despite this, full acknowledgment of human rights violations is rare; when pressed beyond the rhetoric of denial, officials will engage in qualified or “partial acknowledgment.”

⁷ As Jennifer J. Esala has suggested to me, Erving Goffman (1959) appears to have anticipated this development in the use of violence. In *The Presentation of Self in Everyday Life*, Goffman observed, “if attendants in a mental war are to maintain order and at the same time not hit patients, and if this combination of standards is difficult to maintain, then the unruly patient may be ‘necked’ with a wet towel and choked into submission in a way that leaves no visible evidence of mistreatment. Absence of mistreatment can be faked, not order...” (p. 45).

Literal Denial. Literal denial is the “laconic disavowal that ‘nothing happened’” (Cohen 2001:104). This form of denial often involves efforts to discredit allegations by criticizing the “reliability, objectivity and credibility of the observer” (Cohen 2001:105; Forrest, Knight, and Tidball-Binz 1996). Literal denial may also involve “magic denial,” the argument that “the violation is prohibited by the government, so it could not have occurred” (Cohen 2001:105). Perhaps, though, the most consequential form of literal denial is inscribed into acts of state violence. Disappearances (Cohen 2001; Avery Gordon 2008) and clean torture techniques that leave few physical marks (Rejali 2007) produce little evidence that violence occurred and are more difficult for monitors to document and prove.

Interpretive Denial. Given international monitoring of torture, literal denial is difficult for most states to maintain (Cohen 2001; Rejali 2007). Interpretive denial is the rhetorical strategy by which officials “admit the raw facts [...] but deny the interpretive framework placed on these events” (Cohen 2001:105–6). What a critic calls torture an official may describe as a legitimate state practice, such as “intensive interrogations” (Cohen 2001:107) “coercive methods” (Lazreg 2008:114), or “an alternative set of procedures” (Danner 2009). Interpretive denial also involves disputes over the legal category that an alleged incident of violence satisfies: “abuse,” “ill treatment,” or “torture” (Cohen 2001:108). As with literal denial, the flexibility needed for interpretive denial is inscribed into torture practices; an “alibi”—that the alleged incident was not torture but a legitimate investigation—is built into torture by the torturer’s use of

investigative tools, such as flash lights, or practices, such as strip-searches, to inflict pain on victims (Athey 2007:136).

Implicatory Denial. Implicatory denial refers to various strategies to justify or downplay alleged incidents of torture. Officials may challenge the legitimacy of human rights norms (Risse 1999), argue that violence is necessary for defense of the state, blame victims, or contrast the violations of their own state with violations of enemy states (Cohen 2001). Officials may also justify torture by alluding to instances when it proved effective (Conroy 2000; Rejali 2007). As a variant of the claim of necessity, the hypothetical “ticking-bomb” scenario, in which an interrogator confronts an enemy known to have knowledge of an impending attack, has become one of the leading images used to justify torture (Luban 2005; Waldron 2005).

Partial Acknowledgment. Given domestic and international pressure (Risse 1999; Shor 2008) and/or the emergence of persuasive evidence that human rights violations have occurred (Cohen 2001), governments may be unable to continue denying allegations. Yet full acknowledgment is rare, as states tend to qualify wrongdoing with “three devices”: “spatial isolation,” “temporal containment,” and “self-correction” (Cohen 2001:113–14). Spatial isolation refers to the claim that an alleged incident is an “isolated incident” (Cohen 2001:113) unrepresentative of state practices. Temporal containment locates the alleged incident in the political past. Finally, self-correction involves the argument that the criticized state is effectively addressing its violations.

Contemporary human rights work often involves efforts to shame nations accused of human rights violations (Risse and Sikkink 1999; Shor 2008). Such efforts mobilize

the association of torture with illiberal cruelty to disrupt individual, institutional, and national presentations of self (Goffman 1959) as norm-conforming, liberal, and modern. By denying or only partially acknowledging allegations of abuse, public officials engage in repair work that, like the “official discourse” employed in response to other forms of misconduct (Burton and Carlen 1979), aims at “verbally bridging the gap between action and expectation” (Scott and Lyman 1968:3; Payne 2008). Accounts of torture, in other words, frequently operate as correctives that aim to bridge the gap between a socially celebrated ideal and a deviant or unexpected event (Benoit 1995; Orbuch 1997; Payne 2008; Scott and Lyman 1968; Sykes and Matza 1957). If successful, the account may restore the credibility of the offending government by downplaying or rationalizing harm and by representing the alleged incident as emerging out of unsanctioned or exceptional practices. Repair work may also involve rhetorical efforts to associate some political actors, such as low-ranking officials or soldiers, with torture, while cordoning off others from its polluting, symbolic effects (Alexander 1988).

CONTEXTUALIZING OFFICIAL DISCOURSE

As will become clear over the course of this dissertation, Cohen’s typology of denial and partial acknowledgment provides a useful guide to American political discourse of torture. However, in order to address the puzzle that this study takes as its departure point—how did American discourse transition from a discourse of denial to one of acknowledgment—it is necessary to elaborate a more robust theoretical framework for understanding governmental responses to human rights violations.

State officials' use of the rhetoric of denial is part of a more general process through which officials construct—or, more frequently, contain (Schneider 1985)—human rights violations as social and political problems. The constructionist approach to social problems emerged out of an earlier subjectivist turn in the sociology of deviance (Ibarra 2008) and the early theorizing of Herbert Blumer (1971) and Malcolm Spector and John I. Kitsuse (Kitsuse and Spector 1973; Spector and Kitsuse 1973). The perspective holds that social problems are not objective conditions in the world, but claims-making activities: “*the activities of individuals or groups making assertions or grievances and claims with respect to some putative condition*” (Spector and Kitsuse 1987:75; emphasis original). Official accounts of torture are one type of social problems claim—assertions about the nature, causes, and consequences of alleged human rights violations.

Social problems constructionism provides a rich analytic vocabulary for understanding the discursive construction of the “torture issue.” The approach recognizes that claims-making occurs in and is mediated by material and social contexts (Best 1993; Holstein and Gubrium 2003; Pfohl 2008; Weinberg 2009). To understand how officials sustain claims about state violence, what interpretive or “raw” (Nichols 1997:324) materials constitute claims, and why certain claims succeed, it is necessary to analyze official claims within their social contexts.

Social problems constructionists have developed several, often contradictory, approaches to the study of claims-making in its context; the approach has, since Spector and Kitsuse made their definitive contribution, developed into strict constructionist

(Ibarra and Kitsuse 1993), deconstructionist (Pfohl 1985), contextual constructionist (Best 1993), and constructionist analytic (Holstein and Gubrium 2003) perspectives. Of these, the latter two share the dual concern of this section: claims-making activities within their social and historical context. (I will, however, return to the contribution of a deconstructionist approach to social problems below.) Constructionist analytics, however, differs from contextual constructionism in its analytic stance toward both context and the discursive activities that produce problems. Typically, constructionist research of social problems privileges the analysis of overarching trends in “‘large-scale’ public rhetoric” (Holstein and Gale Miller 1993:152). The activities to which constructionist analytics attends, however, are the micro-level, interactional and interpretive processes—what James A. Holstein and Gale Miller (1993) call social problems work—“implicated in the recognition, identification, interpretation, and definition of conditions that are called ‘social problems’” (p. 154).

This study cuts a path between large-scale public rhetoric and the micro-practices that produce political problems. Congressional discourse is, no doubt, public; it is, in many respects, “large-scale,” as it is produced by claims-makers who are inordinately influential. The talk that occurs in congressional hearings, moreover, is also exceedingly managed. Participants may give the same testimony or make nearly identical claims over several months and in multiple hearings. Participants in Congress’ hearings on detention and interrogation may also employ, non-problematically, the rhetorical forms of denial that Cohen documents. At the same time, congressional discourse involves interactive exchanges—interrogative, or question-and-answer, sequences (Lynch and Bogen 1996).

Hearing participants compete to characterize, then, the political problem of torture; they also, interactively, negotiate the meaning of events, documents, directives, and policies. During these exchanges, participants in congressional hearings test the strength of competitors' claims or cooperatively build a common understanding of detention and interrogation. These exchanges, then, are the social processes that produce and sustain official discourse, whether it be a discourse of denial or acknowledgment.

Constructionist analytics is further distinguished from contextual constructionism by its treatment of context. In developing constructionist analytics, James Holstein and Jaber Gubrium (2003) define context as the "cultural or institutional meanings [that] are formulated, then imported to, and used in the construction of social problems" (p. 193). The approach recognizes context as resources that circulate amongst sites of social problems work, rather than a social force behind or above claims-makers. By defining context in this way, the approach permits the analyst to avoid contextual determinism. Against the contextual constructionist tendency to portray context as acting on people, Holstein and Gubrium (2003) and Cynthia J. Bogard (2003) urge constructionists to examine the *interplay*—the "reflexive and recursive" (Bogard 2003:215) relationship—between context and the claims-makers who encounter and modify it.

The emphasis of this dissertation is on one specific aspect of claims-making and context: the appearance and use, at sites of claims-making, of "reality" as a resource for the discursive production or denial of the "torture issue." This focus serves the empirical and analytical interests of this study well. Empirically, I find that participants in Congress' hearings confronted a constructed reality of American detention and

interrogation to which they oriented their claims and that they (“reflexively and recursively”) attempted to modify. I find, moreover, that “reality,” as a contextual resource for discourse, was “imported” into committee hearings; it was gathered-up beyond the performative stage of the hearings and transported to them. And, finally, one important way that “reality” appeared at congressional committee hearings is inscribed in texts.

The Textual Mediation of Official Discourse

Participants in congressional hearings did not, and certainly could not, view detention and interrogation practices as they occurred. Instead, texts, such as photographs and investigations, empowered them to do so indirectly. Texts make lived experience—local realities—durable and mobile; events may outlast their local enactments if representations of them are inscribed into material forms. This is a core observation of sociological accounts of textual mediation. As Dorothy Smith (1990a) puts it, texts, in their materiality, possess the “capacity to transcend the essentially transitory character of social processes and to remain uniform across separate and diverse social settings” (p. 211). Anthony Giddens (1987) refers to this capacity as the “autonomy of the text” (p. 45); Latour captures it in the concept of “immutable mobiles” (Latour 1987:227, 2005:223).

Specifically, texts allow for places, people, and events to be “*scaled down*” (Latour 1987:231; emphasis in original) and have a “real and immediate *virtual* presence” (Lynch and Bogen 1996:114; emphasis in original) at distant sites. Put differently, texts

provide objectified constructions of “lived actuality” that people may scrutinize or “read through” to ““what is”” or ““what actually happened”” (Smith 1990b:75). In this way, textual realities may undergird claims about social problems. Like social activity in general, political discourse occurs within a dynamic textual environment that mediates public officials’ access to “what is.” Officials may selectively draw on the virtual realities carried by texts to ground their own or weaken competitors’ claims about a social problem or historical event.

Although texts may constitute the “reality” of problems and events, it is important to recognize that texts cannot “speak for themselves”; they must be read and interpreted. And, while a material text may be “a constant point of reference against which any particular interpretation can be checked” (Smith 1990b:175), it is only through social activity that the meaning of a text becomes a fixed point of reference to check such interpretations (Perinbanayagam 1974). Actors must “activate” (Smith 1990b:176) a text, mobilizing its representation of reality and bringing it to bear on particular claims. In interactive, interpretive public arenas (Hilgartner and Bosk 1988), such as congressional hearings, we might also expect that officials compete to be treated as the legitimate “spokesperson” (Latour 1987:78; see also Callon 1986) for texts. To be treated as such means to be treated as an objective representative of textual reality; to paraphrase Latour (1987), “the spokesperson is seen not only as an individual but as the mouthpiece of” (p. 78) the text, a window onto “what is.” These negotiations may also be cast at the level of the text, involving debates about the objectiveness or the transparency of a text itself. Such debates may become particularly consequential when a text’s authenticity is

contested (Maratea 2008) or when the representativeness of the evidence inscribed in a text is questioned. Such debates may also occur when texts provide incongruent vantages on reality, producing what Melvin Pollner (1987) refers to as reality disjunctures that challenge everyday understandings of objective reality. Indeed, on such occasions, actors are likely to preserve “mundane reality”—a single, objective reality—beneath discordant textual realities by accounting for the divergences between texts.

An awareness of how diverse texts mediate claims-makers’ access to the “reality” of social problems and historical events is particularly consequential for the study of state violence. Photographs and video recordings, which viewers tend to treat as objective depictions of reality, have a well-documented, but contested role in the production of claims about political violence (Butler 2009; Susan Sontag 1977, 2003; Taylor 1998, 2005; Zveržhanovski 2007). Furthermore, social problems work (Holstein and Miller 1993) that produces documentation of violence often depends on the capacity of medical professionals to transform physical injuries, the outer marks of which tend to heal and which may only become visible once imaged by an “instrument of vision” (Haraway 1988:192; see also Rejali 2007), such as x-rays (Pfohl 1977), into a more durable form.

Underlying the analysis of this dissertation is, then, a concern for how different representational forms—photographs, statistics, or verbal allegations, for instance—operate in political discourse. This concern is appropriate for a “practical-moral” (Seidman 1991:135) reason. Human rights monitors have long acknowledged the problematic status of evidence of torture (Amnesty International 1975) and recent scholarship emphasizes the difficulties that political communities have in “reading”

(Rejali 2007:31) and communicating the suffering of tortured bodies (Scarry 1985).

Sociological studies that systematically analyze political claims about state violence and, in particular, the resources that sustain claims can contribute to the broader project of developing a public “literacy” (Rejali 2007:31) of torture.

Power and the Politics of Textual Realities

More generally, an attunement to the influence of textual reality on political discourse orients research to the ways that power—both material and symbolic—mediates knowledge. To render reality “legible” (Scott 1999)—to produce compelling textual realities—one must have access to the material and symbolic means of reality production (Alexander 2004; Bourdieu 1998; Latour 1987, 2005). What Dorothy Smith (1990b) refers to as “relations of ruling”—the “complex of legally enforced practices coordinating the reporting of local events into a state system of information collection”—mediates textual reality. To produce a textual reality of detainee abuse, particularly in a prison far from the political center, requires a level of access—to geographic sites, organizational actors and documents, perpetrators and victims—that most political actors do not possess. Those with access, however, are capable of controlling the representational forms that instances of state violence take and the definitions—of an “instance of substantiated abuse,” for example—that constitute those realities. In this dissertation, I situate political discourse within the “shifting positions of political parties in Congress” (Babb 2009:xiv), as well as within the shifting organizational dynamics between Congress, executive

agencies, the media, and human rights organizations. In so doing, this dissertation reveals how power, as expressed in the control over textual realities, mediates discourse.

It is also important to recognize that the production of textual realities involves exclusionary, textual practices (Pfohl 2008; Riessman 1993). What we understand to be “torture itself” is, in fact, constructed accounts of the experience of torture.⁸ To access the “event” or “experience” of torture—the physical contact between the torturer or the torturer’s weapon and the victim, the contortion of the victim’s body in a “stress” position, or the manipulation of the victim’s environment—we must pass, first, through a selective witnessing of those experiences. Perpetrators, bystanders, and victims cannot attend to the “whole act itself” but to particular aspects of the experience. Elements of the scene of torture fall away or, perhaps, are differentially emphasized as victims give testimony to International Committee of the Red Cross inspectors, human rights monitors, lawyers, official investigators, journalists, and their own communities. Those who receive testimony themselves transform it. Summarizing or transcribing testimony, they erase certain communicative aspects; body language, pauses, and intonation may be lost for the sake of producing accurate written accounts of torture. And so it goes...personal testimonies may be aggregated to produce composite accounts of the standard treatment of detainees in a facility; these, in turn, may be transformed in sociological accounts of the practice into elementary facts: whether torture of particular type occurred in a particular place and at a particular time.⁹

⁸ Whether there is an objective reality to pain independent of embodied experiences and cultural meanings remains contested. See the debate about reductionism and the embodiment of pain in Coakley (2007).

⁹ See Riessman (1993:8–16) for a theoretical treatment of the representation of experience.

Because our access to the reality of torture is mediated through language (Edwards, Ashmore, and Potter 1995), our knowledge of it is always partial and situated. These statements are not meant to belittle our knowledge of torture, nor are they meant to suggest that all accounts of torture will or, even, *ought* be recognized as equally valid. Representational practices, even if they cannot mirror reality, are what allow us to engage in the crucial work of transforming acts of violence into relatively permanent and stable traces. Through language, “humans act economically to reduce the chaos of material flux”—the embodied stream of consciousness—to relatively stable categories of meaning” (Pfohl 2008:649).

Communication is a precondition of the collective acknowledgment—and, yes, denial too—of human cruelty and suffering (Rejali 2007). These observations signal an analytic opportunity. We may study how people process the experience of violence, eking toward an understanding of how communities come to recognize or deny, establish as true or false, the suffering of others. If we take it as a good that torture be acknowledged and addressed, as I do, then such studies might help us clarify the conditions, as well as the representational forms, that promote the social acknowledgment of suffering.

In pursuing this analytic project, I build on the deconstructionist approach to social problems developed by Stephen Pfohl (1985, 2008) and Avery Gordon (2008). The approach, first, recognizes the partiality of social constructs, that “To make something ‘truly’ present is to make absent something other.” (Pfohl 1985:230). And yet,

What is repressed commonly returns to haunt those same constructions. This can disturb or subvert the seeming “naturalness” of the constructions in question. As Avery Gordon (1997) suggests, “haunting describes how that which appears to be not there is often a *seething presence*, acting on and often meddling with taken-

for-granted realities. As such, to faithfully discern the reality of social construction [...] it is vital to consider the sacrifices and haunting brought about by the ritual labor of construction itself. (Pfohl 2008:661)

A core observation of this dissertation is that official denial is sustained by the state's production of textual realities that silence the "distinctive local historical character" (Smith 1990a:154) of torture—the ebb and flow of torturers' violence, the embodied experience of the sufferer's pain, and the disorders and excesses of its implementation. These features of torture—which are, with higher fidelity, preserved in survivors' narratives, human rights accounts, and, significantly, photographs—haunt dominant constructions of state violence. The debate over "enhanced interrogation" is a case in point. Proponents' defenses of enhanced interrogation build on a cultural archetype (Athey 2007) and liberal ideology (Luban 2005) of torture that construes the state's infliction of pain on a detained person as legitimate when it is instrumentally and clinically organized. This construction neutralizes the cultural code, elaborated above, in which torture appears an atavistic form of cruelty, incompatible with liberal democratic values. This construction of torture is condensed in the image of the "ticking time bomb scenario," in which an interrogator inflicts pain on a known terrorist to obtain timely information to avert a planned terrorist attack. It is, however, more elaborate.

The liberal ideology insists that the sole purpose of torture must be intelligence gathering to prevent the catastrophe; that torture is necessary to prevent the catastrophe; that torture is the exception, not the rule, so that it has nothing to do with state tyranny; that those who inflict the torture are motivated solely by the looming catastrophe, with no tincture of cruelty; that torture in such circumstances is, in fact, little more than self-defense; and that, because of the associations of torture with the horrors of yesteryear, perhaps one should not even call harsh interrogation "torture." (Luban 2005:1439–40)

Sustaining the liberal ideology of torture typically involves thinking about torture “in a highly stylized and artificial way” (Luban 2005:1439). I will show that, in congressional discourse, the liberal ideology of torture is haunted by textual realities that retrieve the distinctive local historical character of American detention and interrogation. This haunting has to do with the ways that interrogations *actually* employ pain and the ways that human bodies suffer. Because interrogators lack a “science” of pain (Rejali 2007), the implementation of “enhanced interrogation” rarely, if ever, conforms to the interpretive contours of the liberal ideology of torture. Interrogators cannot increase or adjust pain inclemently or predictably; instead, they creatively deploy, combine, and improvise torture techniques in the hope of approaching a victim’s pain threshold.

Torture, moreover, remains a culturally-mediated activity (Rejali 2007). Torturers may describe their preferred forms of torture as derived from a feared, historical inflictor of pain—particularly, the Nazis—to increase the notoriety of their own practices (Rejali 2007). Torturers also learn from the cultural traumas enacted on members of their own societies (Rejali 2007) and, if recent accounts of American torture are to be trusted (Human Rights First 2007; Mayer 2007), fictional presentations of the practice. Because torture is a practice that attacks, in addition to bodies, the social worlds of victims (Scarry 1985), ethnocentric, sexist, and racist beliefs frequently structure torture (Lazreg 2008). Gender, sexuality, religion, and the family all may be mobilized to attack the victims (Apel 2005; Hajjar 2009; Tétreault 2006). Contemporary torture, even if its logic is instrumental and clinical (Rejali 1994), often appears ferocious and ritualized. It may appear, then, “a drama [...] old as human memory [...] actors naked, chained,

blindfolded, other actors with props of intimidation, the renderers, nameless and masked, dressed in black” (DeLillo 2010:65) and, thus, fail to negate the associations of torture with atavistic cruelty. And while interrogators may use “clean” torture practices that do not produce bodies that appear to have been tortured, the suffering body rarely suffers cleanly; more frequently, it appears mangled, contorted, vulnerable, and leaky.

Textual realities that retrieve either or both the disorders of interrogation—the propensity of interrogators to creatively practice their “art”—and its excesses—the leakiness of suffering human bodies—are difficult to accommodate into the liberal ideology of torture. In American political discourse, the practices and events inscribed in these representations tend to be disavowed; they are rarely, if ever, legitimized.

The Politics of Framing Textual Realities

Significantly, though, facts have “no absolute size” (Veyne 1984:20); they lack, in other words, an objective social meaning. Instead, “every fact belongs to a series and has relative importance only within its series” (Veyne 1984:22). The political significance of representations of American detention and interrogation derive from their relationship to the interpretive frameworks in which social actors situate them. An interpretive frame is a “central organizing principle that holds together and gives coherence and meaning to a diverse array of symbols” (Gamson et al. 1992:384); they allow people to “make sense of the raw data” of experience, thus rendering “events meaningful” (Babb 1996:1034).

While the power of frames derives, in part, from their resonance with the beliefs and values of the broader culture (Babb 1996), frames operate as interpretive resources.

Actors activate and apply frames, situating events with particular frames. Actors also compete to win consensus for their preferred framing of an event or issue. This competition may result in frame transformation, which Snow, et al (1986)—citing Erving Goffman—describe as a process that,

redefines activities, events, and biographies that are already meaningful from the standpoint of some primary framework, in terms of another framework, such that they are now “seen by the participants to be something quite else.” What is involved is “a systematic alteration” that radically reconstitutes what it is for participants that is going on (Goffman, 1974:45). (p. 474)

Significantly, the meaning of events derives not only from their framing, but also from how actors perform meaning. The meaning or what sociologists, following W.I. Thomas, refer to as the “definition” of a situation is performatively and ritually sustained (Perinbanayagam 1974). Ritual performances, of which congressional hearings are a contemporary type, “are socially structuring practices; interactional devices that effect [...] the collective mobilization of meaningful and authorized social actions” (Pfohl 1992:114). By the timing of hearings, the titles of hearings, and by inviting particular actors, and not others, to perform on the stage of a committee hearing (Naples 1997), Senators—and particularly committee chairs—exercise the power to “display for others the meaning of their social situation” (Alexander 2004:530).

Within political discourse, the reality of torture is a moving target nested within a target that is no less mobile. Changes in the available textual realities of American detention and interrogation promote changes in discourse. American politicians, for instance, found it impossible to deny abuse at Abu Ghraib prison given the availability of visual representations of that abuse. At the same time, the political significance of an

instance of abuse—of a particular representation of abuse—is a product of that representation’s resonance within a broader, political framework. As these frameworks change—as, for instance, a concern for the rule of law or human rights replaces a concern for national security—the implications of allegations change. To understand the meaning of detention and interrogation for Congress, this dissertation documents the trajectories of textual realities and the interpretive frames in which members of Congress situate them.

CONCLUSION

“Denial,” the sociologist Stanley Cohen (2001) writes, “is the normal state of affairs” (p. 249). With this as a point of departure, Cohen articulates a research agenda for the study of political and cultural responses to atrocity.

Instead of agonizing about why denial occurs, we should take this state for granted. The theoretical problem is not, “why do we shut out?” but “why do we ever not shut out?” The empirical problem is not to uncover yet more evidence of denial, but to discover the conditions under which information is acknowledged and acted upon. (p. 249)

The objective of this dissertation is to account for several key shifts in American political discourse of detention and interrogation. Ultimately, however, I am concerned with the broad shifts that permitted a discourse of acknowledgment to emerge. This discourse admitted American interrogation practices constituted torture and construed the use of those practices as a significant, political problem. Given the dominance of denial, there are few studies of acknowledgment. Those studies that do focus on acknowledgment—such as Leigh Payne’s (2008) excellent *Unsettling Accounts*—include analysis of cases quite unlike this study’s. Payne’s study, for instance, examines the

struggle over the past and acknowledgment of it that follow non-democratic states' transitions to democracy. We have, in the case of the U.S., an instance in which acknowledgment occurred within a democratic political structure and during the administration that authorized torture. The case of this study also differs from those Payne studied—Argentina, Chile, Brazil, and South Africa—in that the U.S. tortured foreign prisoners within the context of international conflicts, rather than domestically.

While these distinctions may limit the generalizability of the U.S. case, we also have, in this case, an instance in which acknowledgment emerged even as the military conflicts in which it was practiced persisted. This dissertation, then, sheds light on the social conditions, political processes, and forms of knowledge that permit a government to work itself out, at least partially, of the discourses that sustain torture. Specifically, the emergence of a discourse critical of torture related to changes in several contextual factors. Members of Congress encountered an evolving textual reality that included *official accounts*—produced by Americans working within the military, law enforcement, and intelligence agencies—that retrieved the disorders and excesses of detention and interrogation. These representations of detention and interrogation served as resources to establish the (illiberal) reality of American torture. Members of Congress also encountered—and under Democratic leadership after the 2006 mid-term elections helped produce—a change in political culture that fused the pursuit of national security to the protection of human rights and the rule of law. This frame construed detainee abuse and torture as significant betrays of core U.S. values and profoundly disruptive of U.S.

interests. The emergence of the discourse of acknowledgment is, then, a story of changes in political knowledge, understandings, and power.

2. The Heartbreak of Acknowledgment: Abu Ghraib, MDC, and the Context of Crisis

On April 28, 2004, CBS broadcast photographs showing American soldiers “abusing” detainees held at Abu Ghraib prison in Iraq.¹⁰ Eight days later, President George W. Bush offered an apology to the King of Jordan and publicly recounted, “I told him I was sorry for the humiliation suffered by the Iraqi prisoners and the humiliation suffered by their families” (Fox News 2004). That same day, the President offered an additional apology during an interview with Egypt’s Al-Ahram International (Bush 2004). Despite these statements, the political damage to the President was apparent. The first poll conducted by ABC News/*Washington Post* after the release of the photographs put public approval of Bush’s performance as President below fifty-percent for the first time.¹¹ John Kerry’s presidential campaign and several major news publications called for Secretary of Defense Donald Rumsfeld’s resignation (Brown 2007).

¹⁰ CBS’s report used the word abuse, rather than torture or mistreatment, in its title. This word quickly became the executive branch’s and mainstream media’s preferred label for the depicted violence (Bennett, Lawrence, and Livingston 2006). In this chapter, I follow these claims-makers in using this word as a label for the depicted violence; however, it is important to recognize that this term was highly contested, with public intellectuals, investigative journalists, and human rights organizations arguing that the depicted violence constituted torture (Amnesty International 2004; Danner 2004; Peters 2005; Sontag 2004). My use of the term “abuse” should not be interpreted, then, as an endorsement of the label.

¹¹ Other polls had public approval of President Bush’s performance as President below fifty percent earlier in the year. Gallup’s 1/29-2/1 poll and 3/5-3/7 poll showed that 49 percent of the public approved of President Bush’s performance; however, only after CBS’s story on Abu Ghraib did Gallup’s polls consistently return a minority of Americans approving of the President’s performance. Polling conducted by NBC News/*Wall Street Journal* was relatively consistent with this trend; while a late-September, 2003 poll found public approval of the President below 50 percent, this was the only pre-Abu Ghraib NBC News/*Wall Street Journal* poll that returned this result. After April 28, 2004, this poll would find public approval of Bush at 50 percent just twice, in the week before and after his re-inauguration in 2005. Polling conducted by Fox News/*Opinion Dynamics* and Pew Research Center did not replicate these trends; both polls found public approval of the President under fifty percent for several months preceding CBS’s report on Abu Ghraib. As of March 20, 2011, an archive of these polls is available at PollingReport.com (2011).

After April 28, 2004—that is, after the images—American politicians confronted what Jeffrey Alexander (1988) refers to as a “fundamental social crisis.” While the majority of political action occurs at the “relatively mundane level of goals, power and interest” that political communities do not view as conflicting with “more general values and norms,” a crisis occurs when there exists, within a society, broad consensus that an event has threatened core social institutions, norms, and values (Alexander 1988:194–95). Six years later, the publication of the Abu Ghraib photographs continues to reverberate within American political culture as a “lasting point of demarcation” (Mast 2006:117) within narratives of U.S. detention and interrogation policies. This point has been put most succinctly by David Petraeus who described Abu Ghraib and “other situations like that” as “nonbiodegradables. They don't go away” (Petraeus in Halperin 2010).¹²

Clearly, the release of the Abu Ghraib photographs was a revelation. And yet, this development did not provide the American public and government its first opportunity to confront, post-9/11, the abuse of detainees in U.S. custody. In 2003, the Department of Justice’s Office of the Inspector General released an investigation into the abuse of detainees detained by the Federal Bureau of Investigation (FBI) during their investigation of the September 11, 2001 terrorist attacks. The allegations of abuse, which occurred at Metropolitan Detention Center (MDC) in Brooklyn, New York, did not provoke as intense a political response as the allegations of abuse at Abu Ghraib did. In Alexander’s

¹² These observations explicitly counter those of Eisenman (2007), who argues that Abu Ghraib failed to provoke any significant political or social crisis or outrage. Eisenman, however, does not forward any specific criteria by which his reader may evaluate whether a crisis has or has not occurred.

terms, the allegations remained on the level of “mundane politics”; there existed no political consensus that the allegations of abuse at MDC threatened core American institutions or values.

This chapter poses a series of questions about the political treatment of detainee abuse at MDC and Abu Ghraib. How did the abuse at MDC become construed as a “mundane” event? How did Abu Ghraib become a political crisis? And why did these two events provoke such dramatically different responses? In addressing these questions, this chapter takes a constructionist stance toward political crisis. To take such a stance is to see crisis as “a creation of the language used to depict it; the appearance of a crisis is a political act, not a recognition of a fact or of a rare situation” (Edelman 1988:31). I focus, then, on how political elites rhetorically crafted and symbolically staged the political events at MDC and Abu Ghraib as “mundane” and “crisis” events respectively. Specifically, I juxtapose the timing of congressional committee responses to MDC and Abu Ghraib, the witnesses called to account for those events, and the nature of condemnations of them. I further show how American officials employed knowledge—the representational forms that the violence at MDC and Abu Ghraib took—as an interpretive resource to establish or, conversely, call into question the “reality” of the events. I pay particular attention to the ways that Inspector General’s report on MDC and the Abu Ghraib photographs operated as evidence in congressional discourse.

Finally, I situate the political responses to both events within the political environment in which both sets of allegations emerged. I show that the political projects in which officials understood these events as occurring provided interpretive frames for

the events. It is the relation of the allegations of abuse to this framework that gave the events their divergent, political meanings. The terrorist attacks of September 11, 2001 were the interpretive reference points for debate about the treatment of the “September 11 detainees”; as such, political elites situated the abuse at MDC within a national security frame that neutralized the civil liberties and human rights claims of the “September 11 detainees”. Conversely, “Operation Iraqi Freedom” was the interpretive reference point for debate about Abu Ghraib and political elites recognized the protection of human rights in Iraq as necessary to the war’s success. Within this framing, the abuse at Abu Ghraib appeared a disruptive force, potentially eroding American and Iraqi public opinion of the U.S.’s occupation of Iraq.

The juxtaposition of congressional responses to MDC and Abu Ghraib is instructive for two reasons. First, unlike the photographed abuse at Abu Ghraib, American politicians initially encountered the abuse at MDC as verbal allegations. The cases, then, allow me to detect how differing representational forms—verbal representations of violence versus photographed representations of violence—influence political responses to detainee abuse. Second, the juxtaposition provides the opportunity to clarify the *limits* of the influence of the Abu Ghraib photographs; in so doing, the juxtaposition lends weight to the constructionist claim that context, rather than “events themselves,” influence collective behavior. Like the violence at Abu Ghraib, the abuse at MDC was, in fact, visually documented. In December of 2003, the Inspector General released a supplemental report to its investigation that included stills from recently discovered video recordings from the prison. That this development inspired no

significant collective response suggests the need to move, analytically, from the representational forms abuse takes to the context in which politicians respond to those forms. By presenting an analysis of proximate cases—the Senate Judiciary Committee reviewed the abuse at MDC in July of 2003, the Senate Armed Services Committee reviewed Abu Ghraib in May of 2004—this chapter does this, documenting changes in the political environment over this time and showing how these changes provided interpretive frames that rendered MDC mundane and Abu Ghraib a crisis.

BEFORE ABU GHRAIB: THE ABUSE OF THE “SEPTEMBER 11” DETAINEES

After the September 11, 2001 terrorist attacks, the FBI opened a broad, nation-wide investigation. Code-named PENTTBOM (“Pentagon, Twin Tower Bombing”) (Federal Bureau of Investigation 2012b), the investigation was the largest in the Bureau’s history and involved over half of all FBI employees (Federal Bureau of Investigation 2012a). The purpose of the investigation was to identify those involved with the 9/11 terrorist attacks and to prevent future attacks (Federal Bureau of Investigation 2012a). During the first two months of the investigation, the FBI and other law enforcement agencies detained over 1,200 American citizens and immigrants (U.S. Department of Justice, Office of the Inspector General 2003b:1). While many of those detained were subsequently released without charge, by August, 2002, at least 762 immigrants were

arrested and held by Immigration and Naturalization (U.S. Department of Justice, Office of the Inspector General 2003b:2).¹³

The detentions quickly raised significant concerns. Media reports and human rights investigations suggested that those detained may have been racially profiled, typically lacked information relevant to the FBI's investigation, were subjected to unfocused interrogation, if they were subjected to interrogations at all, and were denied counsel (Sontag 2001; Cowan 2001; Glaberson 2001; Human Rights Watch 2002). Reports also suggested that those detained during PENTTBOM were held in abusive conditions and were verbally and physically abused by corrections officers and cellmates (Sontag 2001; Human Rights Watch 2002; Amnesty International 2002).

The Department of Justice's Office of the Inspector General opened an investigation on April 3, 2002 into allegations of civil liberties violations and abuse of the so-called "September 11 detainees" (U.S. Department of Justice, Office of the Inspector General 2003b). The report focused on two detention facilities—Passaic County Jail in Paterson, New Jersey and MDC (Hakim and Sachs 2002; Fainaru 2002)—which "held the majority of September 11 detainees and were the focus of many complaints about detainee mistreatment" (U.S. Department of Justice, Office of the Inspector General 2003b:3).¹⁴ The resulting report was released on June 2, 2003 (U.S. Department of Justice, Office of the Inspector General 2003a).

¹³ According to the Inspector General's review of the treatment of those held in INS custody, 24 of those held as a result of the PENTTBOM investigation were already in INS custody before September 11. The remaining 738 were arrested after the September 11 terrorist attacks.

¹⁴ At the time of the investigation, Metropolitan Detention Center was operated by the Federal Bureau of Prisons, while Passaic County Jail was contracted to Immigration and Naturalization Services (U.S. Department of Justice, Office of the Inspector General 2003b).

The Inspector General's report documented significant problems with the detention of the "September 11 detainees". Specifically, the IG's report documented that 84 "September 11 detainees" held at MDC in Brooklyn were kept in "'lock down' for at least 23 hours per day," were held in cells that were lit for 24 hours a day, were maintained in a "a '4-man hold' with handcuffs, leg irons, and heavy chains any time [they] were moved outside their cells," and were limited to a single legal and a single social call per month (U.S. Department of Justice, Office of the Inspector General 2003a). At MDC, detainees also experienced a prolonged period of communicative difficulty. Prison employees "frustrated efforts by detainees' attorneys, families, and even law enforcement officials, to determine where the detainees were being held" and, in some cases, provided incorrect information to people inquiring about the detainees (U.S. Department of Justice, Office of the Inspector General 2003a).

The Inspector General's report also documented "a pattern of physical and verbal abuse by some correctional officers at the MDC against some September 11 detainees, particularly during the first months after the attacks and during intake and movement of prisoners" (U.S. Department of Justice, Office of the Inspector General 2003b:197). Specifically, the IG's report documented detainees' allegations that officers at MDC had forcefully pulled detainees out of the vehicles that transported them to the prisons, slammed them against walls upon their arrival, dragged them by their arms, "twisted their arms, hands, wrists, and fingers," verbally abused them, and, in one case, conducted an unnecessary strip search (U.S. Department of Justice, Office of the Inspector General 2003b:143). Corrections officers also taunted and threatened detainees,

referring to them as “Bin Laden Junior” and telling them that “you’re going to die here,” “you’re never going to get out of here,” “you will be here for 20-25 years like the Cuban people,” “you will feel pain,” and “someone thinks you have something to do with the World Trade Center so don’t expect to be treated well” (U.S. Department of Justice, Office of the Inspector General 2003b:143–44).

CONGRESSIONAL HEARINGS AS PERFORMATIVE STAGES

The Inspector General’s report on the abuse of the “September 11 detainees”, as the release of the Abu Ghraib photographs later would, provided the grounds for a congressional review of “detainee abuse.” Congress’ response to the report, however, would differ in significant ways from its response to the release of the Abu Ghraib photographs. This difference, which I have described above as the difference between treating an event as “mundane” and an event as a “crisis,” was expressed not simply in the language political officials used to describe the events. It was also expressed in the ways that congressional committees staged their reviews of these instances of abuse. In this section, I contrast the ways that the Senate Judiciary Committee, which reviewed MDC, and the Senate Armed Services Committee, which reviewed Abu Ghraib, designed their performative stages for mundane and crisis politics.

Staging MDC as Mundane Politics

On June 25, 2003, three weeks after the publication of the Inspector General’s report, the Senate Judiciary Committee convened a hearing to receive testimony concerning the IG’s

findings. This chronology is itself significant. Reports of the abuse of the “September 11 detainees” emerged within weeks of the September 11 terrorist attacks; however, the Inspector General’s office opened its investigation seven months after those reports emerged and published it nearly seventeen months after the September 11 attacks. The Senate Judiciary Committee, too, responded slowly, allowing nearly a month to pass before reviewing the IG’s findings. The relative lethargy of political responses to reports of the abuse of the “September 11 detainees” both suggests and displays its political insignificance. That is, the timing of the Senate Judiciary’s hearing constitutes it as a symbolic stage on which the abuse of the “September 11 detainees” appears as routine, mundane, and non-problematic (Alexander 1988, 2004).

The witnesses called to account for the treatment of the “September 11 detainees” had a comparable effect. While the first panel featured Glenn A. Fine, the Inspector General of the Department of Justice, the second panel included no high ranking official within the executive branch. Director Harley G. Lappin represented the Federal Bureau of Prisons; David Nahmias, Counsel to the Assistant Attorney General of the Criminal Division of the Department of Justice, represented the Department of Justice; and Michael E. Rolince, the Acting Assistant Director in Charge of the Washington Field Office, represented the FBI.¹⁵ Committee members Patrick Leahy and Russell Feingold, both Democrats, drew attention to the absence of the Attorney General John Ashcroft, the

¹⁵ Rolince has since been quoted in the media as an expert on interrogations (Ackerman 2009). Nahmias, in his capacity as Counsel to Michael Chertoff, former Secretary of the Department of Homeland Security, attended meetings in 2005 with the FBI regarding the treatment of detainees at Guantánamo (Benjamin 2007) and was sought, by Senator Carl Levin, for interviews about detention policies for at least a year (Levin 2006). In 2003, however, the events that would make Rolince and Nahmias relevant to public debates about torture had not yet occurred.

Deputy Attorney General Larry Thompson, and the Director of the FBI Robert Mueller.

Given these absences, Senator Leahy questioned the value of the Judiciary Committee's hearing and Senator Feingold its legitimacy.

Leahy: I think it is unfortunate we do not have the Attorney General or other senior witnesses from Main Justice and the FBI, or even outside experts who could shed light on the Department's performance at this hearing. Their absence calls into question the hearing's value. (U.S. Congress 2004:4)

Feingold: I find it very troubling that neither the Attorney General nor the Deputy Attorney General are here to testify today. I know that Senator Leahy requested that one of them appear.¹⁶ The absence of a high-level official from Main Justice frustrates legitimate and meaningful oversight of the Department. This is unfortunate. Imagine, the Attorney General or the Deputy Attorney General are not here to respond to an Inspector General's report about serious abuses within the Justice Department. (U.S. Congress 2004:16)

Typically, social scientists associate exclusions with silences (Avery Gordon 2008; Pfohl 1992, 2008). For instance, Nancy Naples (1997), in her study of congressional discourse of welfare reform, writes that policymakers,

are situated in a position of power to control whose voices will be represented in the legislative hearings. The organization of congressional hearings establishes spaces for certain actors to perform on the discursive stage, inhibits others from participating, and renders silent the voices of those whose perspectives do not fit. (p. 913)

Naple's analysis requires some adjustment to account for the effect of Ashcroft's absence from the Senate Judiciary Committee's hearing. In 2003, as the Republican Chairman of the Senate Judiciary Committee, Senator Orrin Hatch was "in a position of power to control whose voices will be represented" at the Committee's hearing. It would be peculiar, however, to argue that Hatch rendered silent the voice of Attorney General John

¹⁶ Typically, committee chairs are responsible for inviting witnesses to hearings. However, minority members, as Democrats Leahy and Feingold were in 2003, may work informally with the Chair (Senator Orrin Hatch, in this case) or provide a written request signed by a majority of minority party members to invite witnesses to a hearing (Sachs 2004).

Ashcroft, who is both a member of Hatch's political party and himself a former-Chairman of the Senate Judiciary Committee, because Ashcroft's perspective did not fit that of the hearing. Instead, Hatch's exclusion of Ashcroft from the hearing mattered in a different way: It dramatized the political insignificance of the issues before the Committee.

Hatch responded to Leahy's and Feingold's criticisms by noting that the Attorney General would appear before the Committee during an upcoming oversight hearing, that the Attorney General's presence was not necessary to effectively provide oversight of the Department of Justice, and that "time spent complaining about who the witnesses are today is wasted time" (U.S. Congress 2004:19).¹⁷ These statements elicited an exchange between Feingold and Hatch.

Feingold: I certainly understand that the Attorney General should not appear at all the hearings, but the symbolic importance of an Inspector General's report about abuses within the Justice Department I think requires the top person to be here—

Hatch: Well, he will be here.

Feingold: —to respond. But in a context—

Hatch: So will the FBI Director.

Feingold: Mr. Chairman, if I may finish, in a context where that is the focus of the entire hearing, not one of these around-the-world hearings where we all bring up 8,000 different issues, as we must, in a general oversight hearing. This is unique, this is important, and this should be the exclusive focus of a hearing where the Attorney General should respond. (U.S. Congress 2004:19)

¹⁷ Attorney General Ashcroft appeared in the Senate Judiciary's Department of Justice oversight hearing on June 8, 2004. The focus of this hearing was considerably broader than the Committee's hearing on the Inspector General's review, a fact symbolized by the hearing's title, *DOJ Oversight: Terrorism and Other Topics*. While the Inspector General's findings were discussed during this hearing, so too was the abuse at Abu Ghraib prison.

We may read this exchange as partisan posturing, mere disagreement over how the Senate Judiciary Committee effectively oversees the Department of Justice. In their statements, however, Hatch and Feingold also competed to define the symbolic significance of the issue before the Committee. Feingold, in fact, makes this competition explicit by noting that the “symbolic importance” of the Inspector General’s report demands the presence of the Attorney General. Feingold’s criticism, like those of Leahy earlier in the hearing, attempts *to build up* the abuse of the “September 11 detainees” into a significant and pressing political problem. Senator Hatch’s verbal response—as well as his early decision not to invite any of the witnesses listed by Senator Leahy to the hearing—suggests a different construction of the issue, one that plays down its political import by portraying it as insufficiently consequential to compel the presence of the Attorney General. Significantly, the very fact of the competition signals the lack of political consensus of the symbolic importance of the allegations.

Staging Abu Ghraib as Political Crisis

Congress’ and the U.S. executive branch’s response to the public release of the Abu Ghraib photographs was fairly rapid. Within ten days, the President and Secretary of Defense had apologized and two congressional committees had held hearings on the topic of detainee abuse. Indeed, in Congress, Senators raised the abuse of detainees at Abu

Ghraib to high-profile administration officials, including Attorney General John Ashcroft and Deputy Secretary of Defense Paul Wolfowitz.¹⁸

One congressional committee, the Senate Armed Services Committee, responded quickly and intensely, opening a series of seven public hearings on detention and interrogation on May 7, 2004, nine days after CBS's report. The Senate Armed Services' first hearing involved the Secretary of Defense, Donald Rumsfeld, and the Chairman of the Joint Chiefs of Staff, Richard Myers. The inclusion of these two men contrasts, dramatically, with the exclusion of Ashcroft, Thompson, and Mueller from the Senate Judiciary Committee's hearing on MDC. Rumsfeld's and Myers' presence before the Senate Armed Services Committee, only ten days after the photographs' release, signaled the seriousness of the event, as well as the immediate need for a political accounting of it.

This staging of Abu Ghraib was also expressed in officials' rhetorical responses to it. During the hearing, there was broad and bipartisan consensus that the publication of photographs taken at Abu Ghraib was a significant political event. The Chairman of the Committee, Republican John Warner, opened the hearing by describing the allegations of abuse at Abu Ghraib as "as serious as an issue of military misconduct as I ever have observed" (U.S. Congress 2005a:2). Warner then noted that the reports of abuse could, "seriously affect this country's relationships with other nations, the conduct of the war against terrorism, and place in jeopardy the men and women of the Armed Forces

¹⁸ On June 8, 2004, Attorney General John Ashcroft appeared before the Senate Committee on Justice during an oversight hearing (U.S. Congress 2005f). On June 25, 2004, Wolfowitz appeared before the Senate Committee on the Armed Services to give testimony on U.S. operations in Iraq (U.S. Congress 2005c).

wherever they are serving in the world” (U.S. Congress 2005a:2). The ranking Democrat in the Committee, Carl Levin, followed Warner by observing,

The abuses that were committed against prisoners in U.S. custody at the Abu Ghraib prison in Iraq dishonored our military and our Nation, and they made the prospects for success in Iraq even more difficult than they already are. Our troops are less secure and our Nation is less secure because these depraved and despicable actions will fuel the hatred and fury of those who oppose us. (U.S. Congress 2005a:3)

Rumsfeld, for his part, used his opening statement to take responsibility for the events at Abu Ghraib and to apologize to the “Iraqis who were mistreated by members of the U.S. Armed Forces” (U.S. Congress 2005a:5).

I will further discuss the significance of these statements below. For the purposes of this discussion, they are significant because they suggest relative consensus amongst the involved actors—the Republican Chair, the Ranking Democrat, and the Secretary of Defense—of the meaning of Abu Ghraib. Indeed, over the course of the Committee’s hearings, there was a convergence of claims and vocabularies for describing the implications of the abuse of the detainees. Nine of the hearings’ 29 participants—three Democrat Senators, four Republican Senators, and two witnesses—lamented that the photographs had dishonored the U.S. military. Five—two Democrat Senators and three Republican Senators—observed that U.S. soldiers would face increased dangers abroad because of the release of the photographs. Four—one Democrat Senator and three Republican Senators—expressed worry that the photographs would undermine the United States’ war in Iraq. Eight—four Democrat Senators, two Republican Senators, and two witnesses—noted that that the release of the photographs undermined the reputation of the United States.

By the organization of their hearings, the Senate Judiciary Committee staged MDC as mundane politics and the Senate Armed Services Committee staged Abu Ghraib as a crisis that threatened core American values and institutions. The Judiciary Committee responded slowly to the release of the Inspector General's report and with little urgency. No high ranking official was called to account for the treatment of the "September 11 detainees". The Committee's hearing, then, was staged to depress the symbolic significance of detainee abuse. This staging spiraled. Committee Democrats lodged complaints about Hatch's organization of the hearing; Hatch responded by justifying Ashcroft's absence. Such exchanges dramatized the lack of political consensus about the meaning of detainee abuse and situated it within a partisan political discourse. The Senate Armed Services Committee, on the other hand, responded rapidly to the release of the Abu Ghraib photographs. The Committee's Republican Chair and Ranking Democrat used comparable language to express the significance of Abu Ghraib. The presence of the Secretary of Defense, and the fact that he shared the Chair's and Ranking Democrat's concern, signaled the political significance of Abu Ghraib.

REPRESENTATIONAL FORMS AND THE OBJECTIVITY OF ABUSE

Why, though, did the Committees respond in the ways that they did to these events?

There is, of course, an obvious difference in the ways that MDC and Abu Ghraib arrived on the political scene. Abu Ghraib arrived as photographs. MDC arrived, initially, through the verbal allegations of those who suffered abuse and, then, through the

Inspector General's report. In this section, I consider the influence of these representational forms on political discourse.

MDC and the Contested Reality of Abuse

Senator Hatch's decision not to involve the Attorney General and other high-ranking officials depressed the symbolic importance of the hearing. It also set the stage for the production of the abuse of the "September 11 detainees" as a mundane occurrence. This production began with the condemnations of the physical abuse that the IG reported.

Hatch offered a representative condemnation,

Let me state this unequivocally: abuse of inmates, no matter what the actual or potential charges, is wrong. It cannot be tolerated. And should any of the allegations in the IG's report be sufficiently corroborated, the responsible parties should be prosecuted to the fullest extent under the law. (U.S. Congress 2004:3)

There are two things of note in this condemnation. First, and unlike the condemnations of Abu Ghraib that I discussed above, it did not describe the allegations of abuse as consequential; that is, Hatch did not describe the allegations of abuse as interfering with any national projects or interests. Nor did Hatch describe the allegations of abuse as inconsistent with specific institutional or national values. Although Hatch describes the allegations as wrong and intolerable, he is not moved to elevate his rhetoric, mobilize taken-for-granted beliefs of American civil society (Alexander and Smith 1993), and interpret the allegations in relation to them. Put simply, Hatch's condemnation suggests that nothing—neither the country's interests, nor the reputations of its institutions—has been threatened by the reports of abuse.

Second, Senator Hatch describes the abuse of the detainees at MDC and Passaic as allegations, rather than substantiated *incidents of abuse*. This description is particularly important, as it contrasts with the Inspector General's opening statement to the Senate Judiciary Committee, as well as the text of the IG's report. In his opening statement, IG Fine offered an unqualified acknowledgment of abuse at MDC: "With regard to allegations of abuse, we [the Office of the Inspector General] concluded that *the evidence indicates a pattern of physical and verbal abuse* by some correctional officers at the MDC against some September 11 detainees" (U.S. Congress 2004:8; emphasis mine).

The construction of facts is, in part, a rhetorical process by which people gradually disconnect statements from their initial speakers (Latour 1987; Latour and Woolgar 1986). To usher "allegations" of abuse to a "pattern" of abuse is to disconnect "abuse" from the specific individuals who first alleged it; it is, in other words, to turn a subjective claim into an intersubjective reality. This is what the Inspector General attempted in his statement to the Senate Judiciary Committee. To draw attention to the fact that abuse is "alleged," as Hatch did, is to portray the allegations as bound to the subjective positions of their speakers; it is also to implicitly call into question whether those alleged instances of violence actually occurred.

Over the course of the Senate Judiciary's hearing, several participants further interrupted this transformation. For instance, an exchange between Senator Saxby Chambliss, a Republican, and the Inspector General Fine deepened the uncertainty about the status of the abuse.

Chambliss: With respect to the information you gathered on the treatment of the

prisoners, I am bothered by that, as I think everybody should be and is. Where did you get that information? Where did it come from?

Fine: We got it from a number of sources, some of them from the detainees themselves; some of them from the attorneys; some of them from the Bureau of Prisons, who had received complaints; some of them from public documents. So we received them from a number of different sources.

Chambliss: How about from the prisons guards and the prison personnel? Did any of the information come from them?

Fine: The initial allegations did not, but we have spoken to the prison guards and the prison personnel.

Chambliss: Do they agree that that took place?

Fine: The officers who were the subjects of the inquiry denied it, as we point out in the report. There are at least some that have confirmed it, but the subjects have denied it. (U.S. Congress 2004:14)

Chambliss did not draw any conclusions from the fact that, as the Inspector General testified, “The officers who were the subjects of the inquiry denied it.” Chambliss, in other words, did not explicitly state that an observer of the hearing *should* be skeptical that abuse, in fact, occurred. Yet he also did not explicitly state that an observer of the hearing should accept the IG’s findings of a “pattern of physical and verbal abuse” on the grounds that the IG’s office collected information from diverse sources, including some prison personnel who confirmed the allegations. The transformation of allegations to facts or facts to allegations idles in the exchange, caught up in denials of those accused of abuse and the confirmations of other corrections officers.

In the second part of the Committee’s hearing, however, Henry Lappin, director of the Federal Bureau of Prisons, directly contested that abuse occurred at MDC.

To our knowledge, all allegations by the post-September 11 detainees housed at Brooklyn have either been investigated and found to be without substantiation or are currently being investigated. (U.S. Congress 2004:27)

Officials frequently deny human rights violations by engaging in “literal denial,” the outright rejection that alleged incidents occurred (Cohen 2001). Chambliss’ exchange with Fine approaches literal denial; while no outright denial of abuse emerges, the exchange disrupts the transformation of alleged incidents of abuse into substantiated abuse. Lappin’s statement goes further, construing allegations to either be “without substantiation” or still of uncertain validity (“currently being investigated”).

Participants in the Senate Judiciary Committee’s hearing on MDC treated the abuse there as alleged, rather than established. The claims of detainees, corrections officers who witnessed the abuse, and the Inspector General were insufficient to establish the objectivity of the violence at the prison. When encountering Abu Ghraib, however, American politicians confronted violence inscribed in digital photographs. This, I show below, had a profound influence on political discourse.

Abu Ghraib and the Objectivity of Photographs

The Abu Ghraib photographs disturbed American politics. They were, first and foremost, empirically undeniable. Here, a well-cited passage from Roland Barthes is instructive. In his study of photography, Barthes (1981) asserted, “in Photography I can never deny *that the thing has been there*” (p. 76; emphasis original). On May 7, 2004, during the Senate Armed Services’ first hearing on Abu Ghraib, Secretary of Defense Donald Rumsfeld

implicitly acknowledged this consequence of the public release of the Abu Ghraib photographs when he stated,

We have been enormously disadvantaged by false allegations and lies for the better part of a year—and, indeed, before that, with respect to Afghanistan—by terrorists and terrorist organizations alleging things that weren't true. So we have taken a beating in the world for things we were not doing that were alleged to be done. Now we're taking a beating, understandably, *for things that did, in fact, happen*. (May 7, 2004 in U.S. Congress 2005a:19; emphasis mine)

The release of the Abu Ghraib photographs made it impossible to engage in literal denial. To refer to the abuse at Abu Ghraib prison was to refer to visual documents of it. With the authenticity of the photographs unchallenged and, given prevailing attitudes toward the evidentiary value of photography (Walton 1984; Taylor 2005, 1998; Susan Sontag 2003, 1977), the abuse at Abu Ghraib prison could be *seen*, witnessed. In this way, the photographs foreclosed much of the debate that surrounded MDC—whether, in fact, the alleged instances of abuse corresponded to actual instances.

The Abu Ghraib photographs, moreover, show blood, nudity and sexual violence, and military dogs attacking unarmed, naked detainees. For some viewers, the photographs conjured dark associations. Like the violence depicted in lynching photographs, the violence depicted in the Abu Ghraib photographs appears staged for an immediate audience that includes celebratory perpetrators and bystanders; like lynching photographs, the images from Abu Ghraib also appear to have circulated amongst audiences that would sympathize with, if not take pleasure from, viewing the actions of the photographed perpetrators (Apel 2005; Susan Sontag 2004). Viewers of the photographs also noted similarities between the photographs and Christian iconography, especially the Crucifixion (Mitchell 2005; Caton 2006; Eisenman 2007). This is

particularly true of the now iconic photograph of a hooded detainee on a box attached to wires (see Figure 1)—a technique, in fact, known to English soldiers during World War I as the crucifixion (Rejali 2004). Other images of detainees in stress positions also resemble the Crucifixion (see Figure 2), a fact not lost on MP and photographer Sabrina Harman, who described, in an October 20, 2003 letter to the woman Harman referred to as her wife, how a handcuffed detainee “looked like Jesus Christ” (Harman quoted in Gourevitch and Morris 2008).

Figure 1. 11:01 p.m., Nov. 4, 2003. Detainee with bag over head, standing on box with wires attached.¹⁹



¹⁹ The photographs from Abu Ghraib that appear in this chapter are available at Salon.com’s “Abu Ghraib Files,” which is available at http://www.salon.com/news/abu_ghraib/2006/03/14/introduction/index.html. The captions for the photographs used here are also used at Salon.com, who credits them to them to military Criminal Investigation Department materials.

Figure 2. 12:38 a.m., Oct. 18, 2003. Detainee cuffed to the entrance of the wing. Photo taken from the second tier.



Although we do not always know what political elites saw when they looked at the Abu Ghraib photographs, it is of note that they often described themselves, or were described by spokespeople, as reduced to silence by the photographs. In his opening statement to the Senate Armed Services Committee, Secretary Rumsfeld told the Committee and its audience,

The photographic depictions of the U.S. military personnel that the public has seen have offended and outraged everyone in the DOD. If you could have seen the anguished expressions on the faces of those in our Department upon seeing those photos, you would know how we feel today. (May 7, 2004 in U.S. Congress 2005a:5).

Others in the hearing made comparable statements. Senator John McCain, a Republican, worried that Americans would have the same impulse that he had when viewing the photographs, “and that’s to turn away from them” (May 7, 2004 in U.S. Congress 2005a:20). Mark Pryor, an Arkansas Democrat, observed that he “had trouble explaining the photographs and what’s going on inside that prison, with my 10-year-old son. They’re very hard to explain” (May 7, 2004 in U.S. Congress 2005a:68). Not even the President was immune to the silencing power of the Abu Ghraib images; an aide to President Bush

described the President as having “shook his head in disgust” (Allen and Bradley Graham 2004) upon viewing the photographs.

Representational Forms and Political Crisis

Typically, social scientists who take a constructionist approach to social problems and crisis hold the facts that the facts or objectivity of a phenomena—a social problem or a political event, for instance—are insufficient to account, sociologically, for collective responses to them. (Alexander et al. 2004; Edelman 1988; Best 1995; Spector and Kitsuse 1987). Indeed, in Alexander's theory of crisis, the words “consensus” and “perceptions” carry considerable weight. These words suggest that collective, subjective understandings of events, rather than events themselves, account for the onset, nature, and fate of a crisis. Alexander goes so far as to hold the facts of a crisis innocent of influencing the collective response. In a study of the political crisis surrounding Watergate, Alexander (1988) documents that between 1972 and 1974 American views of Watergate changed profoundly; by 1974 the “mundane politics” that characterized Watergate two years prior had developed into a full-blown political crisis. What caused this change? Alexander writes,

... the actual event, “Watergate,” was in itself relatively inconsequential. It was a mere collection of facts, and contrary to the positivist persuasion, facts do not speak. Certainly, new “facts” seem to have emerged in the course of the two-year crisis, but it is quite extraordinary how many of these “revelations” actually were already leaked in the pre-election period. [...] It was the context of Watergate that had changed, not so much the raw empirical data themselves. (p. 193–4)

The different political treatments of abuse at MDC and Abu Ghraib suggests the necessity of qualifying the constructionist truism that contextually-situated perceptions of

events, not, to paraphrase Alexander, “events themselves,” determine collective responses. The *representational form* that events take—rather than “events themselves”—may influence collective responses to them. In 2004, the “detainee abuse” problem at Abu Ghraib may have met a similar political fate as did the earlier allegations of abuse at MDC if not for the existence and publication of the Abu Ghraib photographs. Or, at least, the political consensus that the abuse of detainees at Abu Ghraib *occurred* may have been far more difficult to establish, as in the case of MDC, without the photographs. This point is consistent with broader studies of representations of violence (Sontag 2004; Pfohl 1977; Zveržhanovski 2007), as well as the documentary strategies of medical professionals and human rights workers (Peel and Iacopino 2002; Scarry 1985; Rejali 2007), who have developed diverse strategies, including photographic ones, to make torture visible to political communities.

“Events,” moreover, are never interpretively available in their entirety; they must be processed and transformed into visible, legible, or audible representations to be interpretively accessible (Haraway 1988; Latour and Woolgar 1986; Riessman 1993). Such transformations may involve the production of a textual or visual reality (Smith 1990b) and, as I show in the next chapter, those textual or visual realities may vary based on the “extent” of reality they represent and the proximity of that reality to lived experience. Typically, however, constructionists refer to “events” with generic terms. Alexander, for instance, refers to events as “mere collections of facts,” while social problems constructionists prefer the term “objective conditions” (Best 1993; Blumer 1971; Spector and Kitsuse 1987; Woolgar and Pawluch 1985). These terms obscure the

diversity of forms that representations of reality take, as well as the ways that people take advantage of or collectively respond to those diverse forms. In the cases of MDC and Abu Ghraib, the forms that allegations of abuse took clearly influenced the consensus, or lack thereof, about whether abuse occurred. With the release of the photographs from Abu Ghraib, American politicians were compelled to admit, to paraphrase Rumsfeld, that things did, in fact, happen at Abu Ghraib. In contrast, participants in the Senate Judiciary Committee enjoyed considerable leeway to cast doubt on the mistreatment of the “September 11 detainees”, which was textually, but not visually, documented at the time of the Committee’s hearing.

Still, the constructionist insight about collective interpretations of events remains relevant. Representational forms are diverse and, in that diversity, they present actors with different opportunities and challenges for interpretive work. Interpretive work, however, still occurs within a particular social and historical context that enables and constrains interpretive possibilities. Evidence in support of this thesis is given by the fact that about six months *after* the Senate Judiciary Committee held its hearing on the Inspector General’s report on MDC, the Inspector General’s office released a supplement to it that made reference to and included visual records of the abuse at MDC.²⁰ The

²⁰ The IG’s initial report acknowledged the presence of video cameras at MDC; the Inspector General, however, was initially unable to acquire the video recordings from these cameras (U.S. Department of Justice, Office of the Inspector General 2003b:150). According to the Office of the Inspector General (OIG) (2003b), in July of 2003, the OIG learned of a “storage room” in which an MDC Special Investigative Agent believed there to be videos of interactions between detainees and MDC staff (p. 40). The IG’s office requested all videos and, on August 13, 2003, received a “largely unhelpful” inventory of tapes in the storage room (ibid, p. 40); the inventory included over 2,000 tapes, none of which was made before February 17, 2002. In late-August 2003, staff of the Office of the Inspector General visited MDC, received access to the storage room, and found “a significant number of boxes [...] clearly marked in large handwriting, ‘Tapes’ with dates beginning on October 5, 2001, and continuing to February 2002” (ibid, p. 41).

supplement updated the initial investigation in lieu of the IG's office's acquisition of videotapes of officer-detainee interactions. The OIG reviewed 308 of these tapes, which confirmed "many of the detainees' allegations" and "did not refute any of the detainees' allegations" (ibid, p. 41). Included in the supplemental report are several stills taken from these videotapes (see Figures 3 and 4). Still, the abuse at MDC barely registered²¹ and the Senate Judiciary Committee did not revisit the IG's report.

Figure 3. "Image 4" from "Supplemental Report on September 11 Detainees' Allegations of Abuse at the Metropolitan Detention Center in Brooklyn, New York."



Image 4: Officers firmly press detainee's head against the wall.

Figure 4. "Image 5" from "Supplemental Report on September 11 Detainees' Allegations of Abuse at the Metropolitan Detention Center in Brooklyn, New York."



Image 5: Officer uses thumb to gooseneck compliant detainee's wrist.

²¹ A Lexis-Nexis Academic search of references to "Metropolitan Detention Center" in major U.S. and world publications following the release of the Inspector General's supplemental report returned four articles on the findings of the supplemental report (Casimir 2003; Eggen 2003a, 2003b; Freeze 2003).

There is, moreover, reason to believe that the symbolic power of the Abu Ghraib photographs is insufficient to account for collective responses to them. The Abu Ghraib photographs affected many of their viewers in profound ways and the political and social controversy following their release was magnitudes greater than to earlier official announcements and media reports concerning detainee abuse in Iraq and at Abu Ghraib.²² This, coupled with the public statements of outrage of political elites, signals the photographs effect and affect. Yet the photographs' capacity to disturb is not the whole story of the social and political response to them. Studies of photography consistently observe that photographs alone are insufficient to move public opinion; instead, what Susan Sontag (1977) refers to as a "context of feeling and attitude" (p. 17) must be present for a photograph to register at all. The fact that some of the photographs openly circulated throughout Abu Ghraib prison and were used within the prison to humiliate detainees is evidence of the unevenness of responses to them (Physicians for Human Rights 2008a).

To develop a more adequate understanding of government responses to both MDC and Abu Ghraib, it is necessary, then, to avert our analytic gazes from the evidence of abuse at both prisons and direct it to the political contexts in which officials responded to that evidence.

²² On March 20, 2004, the Coalition Provisional Authority in Iraq announced criminal charges against six military personnel for "conspiracy, dereliction of duty, cruelty and maltreatment, assault, and indecent acts with another" (Coalition Provisional Authority 2004). Based on a Lexis-Nexis search, between then and the first release of images from Abu Ghraib on April 28, 55 articles mentioning Abu Ghraib prison appeared in major U.S. and world publications. This total was eclipsed in the seventy-two hours following the release of the images and, in May, these publications ran approximately 3,000 articles mentioning the prison.

THE CONTEXT OF MUNDANE AND CRISIS POLITICS

The political treatments of MDC and Abu Ghraib oriented toward the political context in which these events emerged. In other words, the differing political responses were not simply matters of fact. Members of Congress narrated the facts of these two events within dramatically different political environments and interpretively deployed salient values and political relationships within that environment to frame the allegations of abuse. Specifically, American political elites understood the abuse at MDC as occurring within a political context defined by the pursuit of national security post-September 11. In this context, the abuse at MDC appeared a regrettable, but tolerable mistake. Political elites, on the other hand, understood Abu Ghraib within a context defined by the pursuit of American and Iraqi support for the war on Iraq. In this context, the abuse at Abu Ghraib threatened to weaken the political relationships necessary for the U.S.'s political and military projects in Iraq.

September 11 and the Competing Narratives of National Security and Civil Liberties

For members of the Senate Judiciary Committee, the mistreatment of the “September 11 detainees” occurred in the long shadow of the September 11, 2001 terrorist attacks. Indeed, the date—and the trauma it refers to—is stamped into the label that the detainees were and remain known by, even though few of the detainees were found to have ties to terrorist organizations or activities, let alone the September 11th attacks. Indeed, every participant in the hearing referenced the September 11th attacks. Even those who made statements most critical of the Department of Justice and FBI, such as Leahy and

Feingold, spoke of the uncertainty that the attacks unleashed and the efficiency of those who investigated it.

Leahy: As the report clearly states and as all of us readily acknowledge, the Justice Department and the Government as a whole were under tremendous stress in the wake of the September 11 attacks. (U.S. Congress 2004:5)

Feingold: There is no question that the investigation of the September 11th attacks presented one of the greatest challenges to Federal law enforcement in American history. And I think we can all agree that in countless ways, the men and women of the Department of Justice performed admirably in the weeks and months after the horrific attacks on our Nation. And for that, I and the American people will be forever grateful. (U.S. Congress 2004:16)

Although Feingold rhetorically pivoted after this statement to acknowledge the necessity of oversight, his statement, like Leahy's, acknowledges the September 11, 2001 terrorist attacks as the relevant interpretive context for the abuse of the "September 11 detainees". The events of September 11 were unavoidable; they were the primary facts against which all other ones about law enforcement's behavior would be interpreted. Several participants in the hearing recognized this explicitly, arguing for the importance of interpreting the IG's findings within the proper context—that of the 9/11 attacks.

Hatch: As we consider these criticisms with 20/20 hindsight nearly 2 years after the 9/11 attacks, it is important to recognize the monumental challenges our country, the Government, and in particular the Justice Department faced in the immediate aftermath of the September 11 attacks. (U.S. Congress 2004:2)

Nahmias: To put the most recent IG report into context, however, I would urge you to remember that we experienced a crisis of unprecedented proportions during the months that followed September 11, 2001. (U.S. Congress 2004:33)

The bipartisan acknowledgments of the terrorist attacks further suggest that "September 11," as a collective representation (Alexander 2004), had, in 2003, a relatively uncontested meaning for political officials.

In the aftermath of the September 11 terrorist attacks, law enforcement agencies, Senator Hatch, Democrat Senator Charles Schumer, and all four witnesses acknowledged, acted and were correct to act as if more attacks were impending. Rolince, the FBI's representative at the hearing, described, at length, the challenges the agency faced after the September 11 terrorist attacks. His description touched on the predictable—the threat of follow-up terrorist attacks, the anthrax attacks, and the kidnapping of Daniel Pearl. Rolince, however, went further, emphasizing that, pre-9/11, the FBI lacked the institutional resources to adequately investigate terror. Post-9/11, the agency, particularly in New York City, faced institutional chaos due to the attacks even as,

PENTTBOM became the largest and most complex investigation in the history of the FBI. In spite of operating under severe handicaps, the New York office—relocated to a garage on 26th Street, and lacking a proficient infrastructure—began a 24/7 operation utilizing 300 investigators from 37 agencies. The 1-800 toll-free line set up in our Atlanta office received 180,000 phone calls from a shocked public eager to assist; 225,000 e-mails were received on the FBI's Internet site. Evidence response teams from throughout the country were dispatched to New York, Washington, and Pittsburgh. (U.S. Congress 2004:30)

Harley Lappin, the Director of the Federal Bureau of Prison, similarly highlighted that MDC “suffered some substantial disruptions to its operations” (U.S. Congress 2004:26–7) due to the September 11 terrorist attacks. Senator Chambliss raised the possibility that corrections officers involved in abuse would have an “emotional feeling” (U.S. Congress 2004:15) towards those allegedly involved in the terrorist attacks, due to the fact that some of them had family members and friends at the World Trade Center on September 11, 2001.

Under these circumstances, a particular political and social good became valued over all others: national security. Statements about law enforcement's behavior in light of the perceived threat of terrorism implied a consequentialist calculus that pitted the abuses that the IG documented against the devastation and political fallout of a hypothetical terrorist attack. In an exchange with the Inspector General, Chambliss implicitly referenced this calculus:

Chambliss: Did you take into consideration the fact that there is a great likelihood that because of the actions of the FBI both here with respect to these detainees and also with other work that they were doing, the FBI has been pretty successful in having no further attacks take place within the United States?

Fine: Yes, we have taken note of that. Everyone, I think, has taken note of that. That is certainly a fact. (U.S. Congress 2004:14)

Later in the hearing, Schumer made a more elaborate and pointed statement to this effect.

I am sure if you did nothing and then, God forbid, one of these people committed a terrorist act, all the articles would be the other way: What the heck? Why didn't you do it? You didn't move quickly enough. These are very easy things to guess in hindsight, and I think the Justice Department didn't do a great job, but under the circumstances, as long as they move to correct it in the future, the changes, you know, doesn't deserve the kind of opprobrium that I have heard from some quarters about this. (U.S. Congress 2004:25)

Hatch followed Schumer's statement by offering, "that is my view as well" (U.S.

Congress 2004:25), and, at the close of the hearing, Hatch referred back to Schumer's statement,

I can just hear the screaming and wailing and shouting if we had had another terrorist attack because you let some of these people go prematurely. I think Senator Schumer is absolutely right when he indicated that you would never live it down. And even at that, we know that there are known terrorist organizations and terrorists in this country that we are monitoring that we are pretty sure may try to do something like this in the future. (U.S. Congress 2004:45)

This framing of the abuse, however, carried a symbolic risk. Even as the good of national security emerged as the primary one to be pursued, it was spoken of in relation to a second good, roughly sketched during the hearing as “cherished freedoms” or “cherished liberties.” Indeed, the “civil liberties-national security” dichotomy is one that is well-recognized historically and today in the United States (see, for instance, Davis and Silver 2004; Heymann 2002; Wood 2003). In 2003, members of Congress—and, in particular, the Senate Judiciary Committee—also recognized the salience of this dichotomy. On November 18, 2003, the Senate Judiciary Committee held a hearing, titled, *America After 9/11: Freedom Preserved or Freedom Lost?*, to explicitly review the status of this good in light of the nation’s response to 9/11. During their hearing on the “September 11 detainees,” several participants explicitly alluded to the need to balance security and liberty. In his opening statement, Hatch acknowledged the Committee’s obligation to “ensure that these agencies are able to investigate, detect and prevent terrorist attacks on our country without threatening or undermining our country’s cherished freedoms” (U.S. Congress 2004:1). Later in the hearing, Schumer described the dichotomy as “the age-old problem of how to balance security and liberty” (U.S. Congress 2004:22). Rolince reflected on the dichotomy’s relevance to the FBI.

The FBI acknowledges that our success is measured not only by how effectively we disrupt acts of terrorism, but also by how well we protect the constitutional rights and cherished liberties of American citizens in the process. We will continue to work to find new ways to meet both of these crucial missions. (U.S. Congress 2004:32)

The acknowledged social and political import of civil liberties might have enabled a counter-telling of the legal mistreatment and physical abuse of the “September 11

detainees” in which those events would appear to be symbolic threats to the core American value of liberty. Such a framing, in other words, might have amplified the symbolic significance of the violence against MDC detainees. Importantly, however, several participants in the hearing rhetorically neutralized such a telling and placed the victims of abuse at MDC outside the symbolic boundaries of this narrative.

Hearing participants made the treatment of detainees at MDC irrelevant to evaluations of the state of civil liberties in the U.S. in several ways. First, and as Senators Hatch, Schumer, and Spector, as well as the Inspector General and Nahmias and Rolince observed, nearly all the detainees at MDC were in violation of American immigration laws and not one was an American citizen. This meant, to participants in the hearing, that their detainment was legal. It also meant that the “cherished liberties” that the country must “balance” with national security were, for the most part, not applicable to those detained at MDC. Thus, the symbolic import of Rolince’s statement that the FBI is judged by how well they protected the “cherished liberties of *American citizens*” (emphasis mine) as well as of Senator Schumer’s similar, but far more explicit, statement,

There are some who believe anyone should have all the panoply of the Constitution, whether they are a citizen or not. I do not agree with that. That has never been the philosophy of this country, and there should be some rights and there should be rules. But it does not mean that you get the same rights as being an American citizen. (U.S. Congress 2004:22–3)

By mobilizing the detainees’ status as illegal immigrants, hearing participants neutralized claims of liberty and rights, rendering them irrelevant to the particularities of the case at hand. As “illegal aliens,” the “September 11 detainees” were also criminals. Their “criminality” was inscribed into their status as “illegal” aliens, yet the meaning of

their criminality exceeded immigration violations. Senator Hatch and Nahmias both cited an earlier Inspector General investigation that found that 87 percent of illegal immigrants who had been ordered to be deported “fail to honor deportation orders and slip back into our society” (Hatch in U.S. Congress 2004:10). Nahmias built on this fact, noting that the high risk of having illegal immigrants avoid deportation was, “after our experiences on September 11, 2001, [...] too great to take such chances” (U.S. Congress 2004:34). Hatch and Nahmias heightened the criminal threat posed by illegal aliens by also alluding to historical instances in which illegal immigrants who had been previously detained and released committed significant crimes against the American people. Nahmias specifically noted that the Inspector General himself had admonished the Department of Justice for failing to prevent these crimes.

The Inspector General testified that for the “vast majority” of MDC and Passaic detainees, he was unsure that there was an “indication” that the detainees were associated with the September 11th terrorist attacks or, more generally, terrorism (U.S. Congress 2004:19). This observation, however, was not sufficient to foreclose claims to the contrary or to disqualify participants from justifying the detention of the detainees on grounds that they posed a threat to national security. Rolince, Nahmias, and Lappin argued and Senators Hatch and Schumer accepted that a reasonable link between the detainees and terrorism existed. Nahmias and Lappin made this argument by describing this link for *particular* detainees. For instance, Rolince noted that,

Some [detainees] had numerous identity documents, and others had failed polygraphs on questions such as, “Did you know any of the hijackers?” or “Were you involved in the September 11th attacks?” [...] [*O*]ne immigration detainee who pled guilty to conspiracy to commit identification fraud and aiding and

abetting the unlawful production of identification documents traveled overnight with two of the hijackers. The name and address of *another immigration detainee*, who pled guilty to identification fraud, was used by Al-Qaeda cell members in Hamburg, Germany, to attempt to obtain U.S. visas. (U.S. Congress 2004:31; emphasis mine)

Nahmias offered comparable examples.

Examples of those detained include *an illegal alien* who was a roommate of one of the 19 hijackers and who also knew a second hijacker; and *an illegal alien* who admitted to the FBI that he had trained in terrorist camps in Afghanistan and who was linked to known members of a terrorist organization. (U.S. Congress 2004:33; emphasis mine)

As “illegal immigrants” or “illegal aliens,” the “September 11 detainees” were portrayed as criminals who also posed a risk of terrorism. As a legal, political, and cultural construct, the illegal immigrant, illegal alien, or, simply, the alien is a typified person whose label produces a symbolic border between those who belong to the nation and, thus, receive the full protection of law and those who do not (Kevin R. Johnson 1996). In the aftermath of the September 11 terrorist attacks, this construct intersected with ethnicity: Arab citizens and immigrants became targets of formal and informal racial profiling (Akram and Kevin R. Johnson 2002). During the Senate Judiciary Committee’s hearing, Senator Feingold raised this issue with Rolince, who denied that the high prevalence of, in Feingold’s words, those who “share the same religion or ethnicity of the September 11th hijackers” amongst the “September 11 detainees” was evidence of racial profiling (U.S. Congress 2004:39). The issues of race and ethnicity were, however, otherwise absent from the Committee’s hearing. Indeed, during the hearing, the *illegality* and the *criminality*—statuses that were, in fact, conflated—of the “aliens” detained at MDC, coupled with their putative link to terrorism, was sufficient to render them

noncitizens and, thus, outside the symbolic boundaries of the political debate about rights and security.²³

The abuses at MDC were publicly narrated in reference to the September 11 terrorist attacks and the uncertainty about follow-up or second wave attacks. Such a telling involved the construction of political interests and actors in a way that resulted in the minimization of the abuse at MDC. Specifically, by narrating MDC in relation to the September 11 terrorist attacks, participants in the Senate Judiciary hearing elevated national security to the pinnacle of political goods. What mattered in this framing was national security; in it, the behavior of American law enforcement officers and, more broadly, the executive branch would be weighed against a bleak alternative: the return of terrorism to American cities. Furthermore, in this narrative, Americans figured as passive political actors, if actors at all.²⁴ They were dependent on law enforcement officers to preserve national security; they were, as described by several hearing participants, grateful to law enforcement agencies for preventing terrorist attacks after September 11. Dependent and grateful, the American people were treated as firmly bound to the post-9/11 projects of law enforcement.

In this case, with political consensus that the September 11 terrorist attacks put the nation's and its populace's safety at risk, national security, as one tie that binds the citizenry to its government, is a chain. Members of the Senate Judiciary Committee

²³ In the absence of a religious label, this rhetorical construction of the "September 11 detainees" differs, significantly, from later constructions of "Islamic terrorism" (Jackson 2007a).

²⁴ My use of the word "figure" is informed by Bruno Latour's (2005) use of the term "figuration" to describe the form that people give to actors in their accounts of action. Latour uses the phrase as a noun, to refer to the precise form, whether human or not, given to "an agency forbidding me or forcing me to do things" (p. 54). Here, I am using the figure as a verb to suggest that participants in the Senate Judiciary's hearing did not construct the "American people" as agents or actors in their accounts of MDC.

largely assumed American support of PENTTBOM and the quest to prevent terrorism. Finally, the dual—and constructed—identities of the victims as “September 11 detainees” and illegal aliens placed them outside the symbolic boundaries of the rule of law; the victims were non-citizens, criminals with alleged ties to terror. Members of the Senate Judiciary Committee, furthermore, did not perceive the detainees as belonging to an identifiable political group whose cooperation with U.S. political projects mattered and who could, in the name of the “September 11 detainees,” press moral claims against the U.S.

Hearts and Minds: Abu Ghraib and the Promise of Human Rights

Participants in the Senate Judiciary Committee framed the abuse of the “September 11 detainees” within a context that depressed the symbolic significance of the events at MDC. Conversely, participants in the Senate Armed Services Committee hearings on Abu Ghraib encountered the photographs and the abuse they depicted within a precarious political context. The abuse and torture of detainees at Abu Ghraib prison occurred within the context of “Operation Iraqi Freedom.” Although the Bush administration initially framed the war as one pursued for the sake of national security, it was never described as solely about this political good. The administration’s arguments for the war frequently cited Saddam Hussein’s human rights violations, including torture, as evidence of Hussein’s pathology. Initially, the administration referred to this to strengthen their claim that Hussein was an irrational political actor who could not be trusted with weapons of mass destruction (Chang and Mehan 2008). After no weapons of mass destruction were

found in Iraq, the protection of human rights and the establishment of the rule of law became increasingly important legitimating claims for the war. Indeed, by July of 2003, just four months after the start of the invasion, the Bush administration had begun to transition its rationalizations for the Iraq war.

The risks of this transition were, furthermore, readily apparent. On July 29, 2003, Deputy Secretary of Defense Paul Wolfowitz appeared before the Senate Foreign Relations Committee. After giving an opening statement that emphasized the brutality of Saddam Hussein's reign, Democrats and Republicans alike sharply criticized the Deputy Secretary for, in the words of Republican Lincoln Chafee, "shifting justifications," avoiding discussion of weapons of mass destruction, and focusing, primarily, on "what a despicable tyrant Saddam Hussein is, who brutalized his people" (U.S. Congress 2003:48). For Chafee, this shift in justification was evidence of the failure of the Bush administration to clearly define its mission in Iraq. The new frame, the Senator also pointed out, was inadequate, if not hypocritical; other regimes, such as that of Charles Taylor in Liberia, had committed equally onerous crimes against humanity.

As the primary frame for interpreting the Abu Ghraib photographs, the U.S. invasion of Iraq raised another problem: In political perceptions of the invasion, American citizens and Iraqi citizens figured as crucial political actors, whose support, if not cooperation, was necessary for the success of the mission. Indeed, domestically and internationally, the U.S.'s invasion of Iraq provoked questions about the political legitimacy of the executive branch's actions that were not raised about the executive's response to the September 11 terrorist attacks (Kagan 2004; Danner 2009). Given a

steady drop, beginning in late-2003, in public support for the war and given the political recognition that the success of the invasion demanded the winning over of Iraqi “hearts and minds” and the maintenance of U.S. popular support (Biddle 2006; Matthew Davis 2005), the problem of legitimacy became increasingly significant. The claim, then, that the war concerned human rights was a rhetorical and political device to persuade these actors to “enroll” in the administration’s program (Callon 1986:206–11).²⁵ The Bush administration’s claims about human rights, in other words, became one way of attempting to bind American and Iraqi hearts and minds to the invasion.

The human rights crimes in Iraq and, later, the release of the Abu Ghraib photographs weakened the credibility (Benford and Snow 2000) of this framing of the war. In mainstream media newspapers, Iraqis who had been detained by U.S. soldiers compared their treatment to conditions under Hussein (Cambanis 2004); such comparisons eroded the dichotomy between Hussein and the U.S. that the administration mobilized in their justifications for war. During the Senate Armed Services Committee hearings, participants expressed concern for the consequences of these developments on these significant political relationships. Senator John McCain, for instance, worried that after Americans turned away from the Abu Ghraib photographs, they would turn away from the Iraq war.

²⁵ Following Michel Callon’s (1986) notion of “interessement,” I regard public justifications for the Iraq war and arguments for its legitimacy as a “device” employed to enroll actors into or seduce actors to join one’s own program and prevent them from joining them from joining, either willingly or not, those of others (p. 206–11).

We risk losing public support for this conflict. As Americans turned away from the Vietnam War, they may turn away from this one unless this issue is resolved, with full disclosure, immediately.²⁶ (May 7, 2004 in U.S. Congress 2005a:20)

Others, including Senators Warner, Dole, and Levin, shared the fear that the abuse of detainees at Abu Ghraib would undermine the successes of the war in Iraq. Dole made a particularly acute comment to this effect, “Trust among the Iraqi people had slowly been established, bonds have been made, and, sadly for now, many of those bonds have been broken” (May 7, 2004 in U.S. Congress 2005a:59). The Chairman of the Committee, Senator John Warner, similarly worried about the condition of U.S. international relations after the release of the photographs. As noted at the opening of this chapter, Warner lamented that the photographs could “seriously affect” the U.S. relationships abroad. Warner later observed, “it's obvious to all of us that the impact of the facts of this case as they are unfolding is affecting our relationship with other nations, our foreign policy” (U.S. Congress 2005a:17).

Senators Edward Kennedy and Jack Reed, both Democrats, took a different approach, describing particular photographs as symbols that would come represent America to global communities, particularly those in the Middle East. Kennedy's statement is illustrative.

To the people in the Middle East [. . .] the symbol of America is not the Statue of Liberty, it's the prisoner standing on a box wearing a dark cape and a dark hood on his head with wires attached to his body, afraid that he's going to be electrocuted. (May 7, 2004 in U.S. Congress 2005a:24)

²⁶ McCain's statement suggests the continuing resonance of the “discursive legacy” of Vietnam (Coy, Woehrle, and Maney 2008).

Senator Susan Collins, a Republican, likewise worried that global viewers' would mistake "the real America," which "to a degree unprecedented in human history, has sacrificed its blood and treasure to secure liberty and human rights around the world" (May 7, 2004 in U.S. Congress 2005a:42), with what the photographs showed.

These types of statements implicitly recognized a global array of political actors—"people in the Middle East," for instance—as central to American political interests. This fact is further observed in the administration's multiple apologies to the victims of the abuse, the Iraqi people, and U.S. citizens. In his opening statement to the Senate Armed Services Committee, Secretary Rumsfeld offered,

I feel terrible about what happened to these Iraqi detainees. They're human beings, and they were in U.S. custody. Our country had an obligation to treat them right. We did not, and that was wrong. So to those Iraqis who were mistreated by members of the U.S. Armed Forces, I offer my deepest apology. [...] Further, I deeply regret the damage that has been done. First, to the reputation of the honorable men and women of the Armed Forces, who are courageously, responsibly, and professionally defending our freedoms across the globe. [...] Second, to the President, Congress, and the American people; I wish I had been able to convey to them the gravity of this before we saw it in the media. (U.S. Congress 2005a:5)

Rumsfeld's apology recognizes the moral pull of disparate political groups on U.S. interests. Significantly, these words also constitute the victims of American violence as both "human beings" and citizens ("Iraqis") with basic, human rights. This construction contrasts, quite strikingly, with that of the "September 11 detainees" as illegal immigrants and terrorists unprotected by the U.S. Constitution. More generally, Rumsfeld's—and the President's earlier—apology for Abu Ghraib contrasts with the Department of Justice's refusal to apologize "for finding every legal way possible to protect the American public

from further terrorist attacks” after the Inspector General released his report on the treatment of the “September 11 detainees” (Lichtblau 2003).

These concerns—about American support of the Iraq war, Iraqi support of the U.S. military and its mission, and international relations—suggests that American politicians confronted a dramatically different political environment when debating Abu Ghraib than they did when examining the MDC abuses. This environment, in turn, provided interpretive frames in which officials situated the allegations of abuse. The “power” of the Abu Ghraib photographs—their capacity to disturb or outrage viewers—politically mattered because those viewers, in turn, mattered to prevailing understandings of salient political projects. Members of the Senate Armed Services Committee, as well as its high-profile witnesses on May 7, viewed the war in Iraq as a project that depended on a web of social relationships that the photographs had frayed.

CONCLUSION

An individual may view a photograph and become outraged or disturbed. The photograph might wound that viewer, puncture his or her attention, or activate an emotion that typically lies dormant.²⁷ Such an experience may also produce a lasting change. Susan Sontag (1977), for instance, recounts how, as a child, photographs of Bergen-Belsen and Dachau “broke,” perhaps permanently, something in her (p. 20). Then again, the feeling may pass. Many feelings, in fact, do. Outrage—the disturbance of a photograph—may remain a private, temporary feeling. A photograph may make no mark.

²⁷ This is how the French philosopher Roland Barthes (1981) describes the “punctum” of a photograph.

The video stills from MDC are forgotten—or, more accurately, never encountered—relics from the aftermath of the September 11 terrorist attacks. Coverage of their release was scant and after the release of the stills, the Senate Judiciary Committee returned to abuse of the September 11 detainees in passing and never on its own terms.²⁸ The allegations of abuse at MDC emerged into a political environment largely impervious to their influence. Members of the Senate Judiciary Committee appeared to accept that the executive branch’s investigation and prevention of terrorism involved highly paternalistic and nationalistic political relations. The support and cooperation of the U.S. citizenry was taken-for-granted; they appeared, within the rhetoric of Committee members, as grateful, if not passive, actors. If segments of the American public were outraged by the abuse at MDC, that outrage remained invisible to participants in the Senate Judiciary’s hearing on the abuse. The “September 11 detainees,” for their part, appeared within Committee members’ rhetoric as criminal foreigners—illegal aliens—whose treatment was irrelevant to ongoing debates about civil liberties.

The Abu Ghraib photographs, however, left a mark on the American body politic. They did so because they were empirically undeniable, because they contradicted the prevailing framework that the Bush administration had constructed for the Iraq war, and because they resonated with domestic and international viewers. That resonance mattered because American politicians understood viewers of those images—particularly, U.S. citizens and Iraqi citizens—as political actors whose support of and cooperation with the

²⁸ The treatment of the “September 11” detainees was discussed during the broader hearing on civil liberties, mentioned above, *America after 9/11: Freedom Preserved or Freedom Lost?*, which the Committee held on November 18, 2003. On June 15, 2005, the Inspector General again appeared before the Committee during a broader hearing, entitled *Detainees*, on the Bush administration’s detention and interrogation policies post-9/11.

U.S. occupation of Iraq was highly consequential. Members of the Senate Armed Services Committee initially derived the meaning of the Abu Ghraib photographs from within the interpretive framework of that context. The Committee, however, did not end their interpretive work there. The purpose of the Committee's hearings was to repair the "bonds" that the photographs had broken. Secretary of Defense Rumsfeld was not alone on May 7 in articulating his hope that the Committee's hearings and the Department of Defense's investigations would resolve the crisis that the images provoked; Senators Levin, Byrd, Allard, Frist, Dole, and Collins all alluded to the possibility that U.S. credibility could be restored. Rumsfeld offered, however, the most elaborate statement to this effect,

Mr. Chairman, I know you join me today in saying to the world, "Judge us by our actions. Watch how Americans, watch how a democracy, deals with wrongdoing and with scandal and the pain of acknowledging and correcting our own mistakes and our own weaknesses." After they have seen America in action, then ask those who teach resentment and hatred of America if our behavior doesn't give the lie to the falsehood and the slander they speak about our people and about our way of life. Ask them if the resolve of Americans in crisis and difficulty and, yes, in the heartbreak of acknowledging the evil in our midst, doesn't have meaning far beyond their hatred. (May 7, 2004 in U.S. Congress 2005a:7)

In the next two chapters, I document the task that Rumsfeld outlined for the Committee—the work, that is, of the Committee, and particularly its Republican members and witnesses from the executive branch—to contain, if not resolve, the Abu Ghraib scandal.

3. Isolating Incidents

In May 2004, the Bush administration and its Republican supporters in Congress confronted a political crisis provoked by revelations of “detainee abuse” at Abu Ghraib prison. In the months leading up to the November Presidential election, the crisis threatened the tenure of Bush's Secretary of Defense, Donald Rumsfeld, and John Kerry's campaign appeared poised to make the abuse a campaign issue (Neal 2004). By October, 2004, however, the Abu Ghraib scandal had lost much of its political resonance. During the three Presidential debates, torture was mentioned once—by President Bush and in reference to the human rights violations of Saddam Hussein (Commission on Presidential Debates 2009a). Abu Ghraib and the broader issues of detainee abuse and U.S. detention and interrogation policies were similarly overlooked.

The resolution or “containment” (Schneider 1985) of the Abu Ghraib scandal involved, in part, the successful portrayal of the violence at the prison as an isolated incident, unrepresentative of American detention and interrogation practices under the Bush administration. This portrayal of the violence, in combination with the so-called “few bad apples” account of it, downplayed the responsibility of high-ranking military and civilian officials for the abuse and minimized the political harm suffered by the Bush administration. The accounts, in other words, prevented the symbolically and politically toxic violence at the prison from traveling geographically and organizationally. By geographically isolating Abu Ghraib, these accounts prevented the image of Abu Ghraib from becoming the image of, or typifying (Best 1995), the U.S.’s conflicts in Iraq and Afghanistan, as well as the U.S. detention facility in Guantánamo. By causally isolating

the violence at the prison, these accounts prevented blame for the violence from climbing up the military and civilian chains of command. Ultimately, the accounts interpretively sealed Abu Ghraib, preventing the violence there, at least temporarily, from polluting (Alexander 1988) the broader political projects of the Bush administration.

The portrayal of the violence at Abu Ghraib as an isolated incident caused by the actions of a “few, bad apples” is well-documented (Danner 2004; Hooks and Mosher 2005). The portrayal also resonates with the social scientific studies of official denial of torture (Cohen 2001; Rejali 2007) that I described in Chapter 1. Indeed, the claims are variations of the forms of partial acknowledgment that Stanley Cohen (2001) documents in his study of denial; while admitting instances of wrongdoing, the claims downplay those instances, portraying them as the result of exceptional circumstances and rogue soldiers. Still, the social processes that sustained the portrayal of Abu Ghraib as an isolated incident resulting from the actions of a “few bad apples” remain under-examined. Moreover, counter-claims, including Democrats’ efforts to link Abu Ghraib to incidents of abuse more broadly and locate blame for the violence in the upper-reaches of the chain of command, have been virtually ignored by social scientists. Just as importantly, the interpretive resources that mediated political claims about Abu Ghraib have also been overlooked. An understanding of both the interpretive work that established Abu Ghraib as an isolated incident resulting from the behavior of a “few bad apples” and the interpretive resources employed in that portrayal is necessary to uncover the ways that political power and access to material and symbolic resources structure political discourse, particularly in a contested, democratic environment.

In this chapter, I attend to the interpretive processes, during the Senate Armed Services Committee's (SASC) 2004 hearings on Abu Ghraib, that gave detainee abuse a geographic dimension; Chapter 4 attends to the interpretive work that established the causes of the violence at Abu Ghraib. Specifically, I follow the processes by which participants in the hearings—and, particularly, Department of Defense and military officials and Republican Senators—portrayed the violence at Abu Ghraib prison as an isolated incident unrelated to instances of abuse throughout the U.S.'s conflicts in Iraq and Afghanistan. I also document how the administration's supporters in the Committee defended this portrayal of Abu Ghraib from counter-claims pressed by influential Democrats. In so doing, I demonstrate that political discourse, on the stage of the SASC hearings, about Abu Ghraib developed within a dynamic textual environment that provided the "reality" of detainee abuse that the Committee encountered.

Specifically, I examine the interpretive resources and constructive work by which participants in the hearing competed to characterize the geographic extent of detainee abuse in Iraq and Afghanistan. I document the emergence of a knot of claims about American violence against detainees: that widespread detainee abuse occurred throughout Iraq and Afghanistan, but the photographed abuse at Abu Ghraib prison was an isolated incident, unrepresentative of abuse that occurred elsewhere. In so doing, I examine the interplay between the textual environment in which the hearings occurred and participants' claims about the geographic extent of detainee abuse. I show how changes in this environment, particularly in the availability of increasingly detailed and "small-scale" (Montello 2001:13502) representations of detention operations, mediated hearing

participants' access to a "reality" of detainee abuse throughout the United States' conflicts in Afghanistan and Iraq. I further show that, at the conclusion of the SASC's hearings, the interpretive resources circulating in the textual environment of the hearings provided officials with rich materials for the rationalization of abuse beyond Abu Ghraib prison and the portrayal of the politically toxic abuse there as an isolated incident.

THE CONSTRUCTION OF AN ISOLATED INCIDENT

On May 7, 2004, the Senate Armed Services Committee held the first of its seven open hearings on American detention and interrogation practices during the wars in Afghanistan and Iraq. Over these hearings, accounts of what occurred in Abu Ghraib prison evolved in important ways. By public leaks of classified documents and public releases of official investigations, the factual ground of these accounts also shifted. Specifically, accounts of "what really happened" at Abu Ghraib prison developed along two important dimensions. One was descriptive, involving accounts of the amount and kind of abuse that occurred and the spatial extent of it. Another was causal, involving accounts of why the abuse occurred. This chapter is devoted to tracing the construction of accounts along the former of these two dimensions.

The Senate Armed Services Committee hearings provided a public stage on which American officials processed these developments in public knowledge of abuse and, then, accounted for the violence at Abu Ghraib. Over the course of the Committee's seven hearings, participants competed to define the geographic extent of detainee abuse. The rest of the chapter is devoted to documenting the fate of this competition. Specifically, I

present the interpretive processes by which the violence at Abu Ghraib prison become geographically isolated from instances of abuse throughout Iraq and, in fact, throughout the broader war on terror. I show that this claim faced considerable resistance from Senate Democrats, who attempted to portray the political problem as one of “widespread abuse.” I document that the struggle to define the geographic extent of abuse oriented toward a developing textual reality of violence. Over the course of the Committee’s hearings, increasingly “small scale” textual representations of abuse became available; these representations offered a mediated vantage on detention operations throughout Iraq, Afghanistan, and Guantánamo. Significantly, this vantage obscured the local reality of detainee abuse by “zooming out” from the local to the global, portraying abuse that occurred elsewhere than Abu Ghraib in representational forms—such as statistics—that prevented critics from “reading through” (Smith 1990b) to the specific acts of interpersonal violence. In this way, the textual representations available to the Committee—and particularly those constructed by the Department of Defense—served the claim that Abu Ghraib was geographically unique.

I present this process in three parts that loosely correspond to the chronology of the hearings. I begin by describing the lack of consensus, during the Committee’s May 7 hearing, about the geographic extent of abuse. I then examine the emergence and strengthening of the claim that abuse had occurred throughout Iraq; this claim, which hearing participants suggested on May 7, was undisputed by May 19. Finally, I show the simultaneous processes on May 19, July 22, and September 9 by which hearing

participants rationalized “widespread abuse,” gave it quantitative form, and isolated the abuse at Abu Ghraib from abuse that occurred elsewhere.

THE QUESTION OF A “BROADER PROBLEM”: THE LIMITS OF THE ABU GHRAIB PHOTOGRAPHS

As I documented in the previous chapter, the photographs from Abu Ghraib foreclosed literal denial, the claim that nothing had happened at Abu Ghraib. Participants in the Senate Armed Services Committee hearings took for granted, as Secretary of Defense Donald Rumsfeld put it on May 9, that “things, in fact, happened” at Abu Ghraib prison. The photographs from Abu Ghraib, then, stabilized incidents of interpersonal violence that, otherwise, might have disappeared into their own, local enactment. The “indexical nature” (Taylor 1998:52) of the photographs—their capacity to objectively represent physical objects that once existed—permitted American citizens, and, in fact, a global community of viewers to “see what [was] going on” (Smith 1990b:55) in particular places and at particular moments in America’s war in Iraq. By treating the photographs as authentic, objective inscriptions of that violence, participants in the Senate Armed Services Committee hearings could look through the images and scrutinize the “underlying reality” (Taylor 2005:42) of events at Abu Ghraib prison.²⁹

Despite their evidentiary value, the photographs suffered from a significant limitation: the visual reality inscribed in them was limited to events that occurred in Abu

²⁹ The realism of photography is itself a social construction (Becker 1995). It is, however, beyond the scope of this chapter to turn the tools of visual studies back on the photographs taken at Abu Ghraib prison (Andén-Papadopoulos 2008; Apel 2005; Butler 2009; Sontag 2004b; Williams 2010).

Ghraib prison. The photographs, in other words, are relatively “large-scale” (Montello 2001:13502) depictions of U.S. detention operations; they represent a fairly small portion of social reality.³⁰ As interpretive resources, the photographs, then, did not provide grounds to answer a question that Democrat Senator Robert Byrd posed to Secretary Rumsfeld on May 7, “How do we know that there isn’t a broader problem here” (May 7, 2004 in U.S. Congress 2005a:42).

To respond to this question, participants in the hearing referred to other texts that offered relatively small-scale representations of reality; such texts gave *more of* American detention and interrogation operations a virtual presence in the SASC’s hearings. By reading through these texts, hearing participants took up a vantage point from which they could ground claims about “things that did, in fact, happen” *throughout* Iraq and Afghanistan. Attempts on May 7 to establish the geographic extent of detainee abuse are illustrative of this. Two witnesses, General Richard Myers, Chairman of the Joint Chiefs of Staff, and General Lance Smith, Deputy Commander of the United States Central Command, introduced a finding from the *Taguba Report* (Taguba 2004) as grounds for their claims that abuse was not widespread. Myers’s statement is illustrative.

The *Taguba Report*, if you recall, looked at four installations where the 800th MP Brigade had operations. They found abuse in only one, and that’s Abu Ghraib. (May 7, 2004 in U.S. Congress 2005a:36)

As a resource for establishing the geographic extent of detainee abuse, the *Taguba Report* represents an upgrade from the photographs from Abu Ghraib, as its textual

³⁰ The cartographic scale of a map is the ratio between “the amount of distance on the map” and “a particular distance on the earth’s surface”; thus, when a map “shows a relatively small area of the earth,” it is a relatively “large scale map” (Montello 2001:13502).

reality represented four, rather than a single, U.S. detention facility. Smith's and Myers's references to the report were, however, insufficient to foreclose counter-claims on May 7 and the Generals' statements reside precariously next to claims that abuse occurred more widely. By shifting to alternative, textually mediated vantages on detention operations, Senators Robert Byrd and Edward Kennedy forwarded claims that abuse occurred in locations beyond Abu Ghraib prison. Byrd noted that "reports," including those of the ICRC, suggested that detainee abuse had occurred in "more than just the Abu Ghraib prison" (May 7, 2004 in U.S. Congress 2005a:32). Senator Kennedy offered a more specific statement, citing the military's criminal investigations to support his claim that abuse had occurred in Afghanistan and Iraq.

35 criminal investigations into alleged mistreatment of detainees in Iraq and Afghanistan, 25 of these investigations involving deaths. [. . .] In particular, in December 2002, military doctors at the Bagram Air Base in Afghanistan ruled that two Afghan men in U.S. custody died from blunt-force injuries. (May 7, 2004 in U.S. Congress 2005a:24)

In pressing their claims about the geographic extent of abuse, Kennedy, Byrd, Myer, and Smith drew on diverse texts that carried divergent textual realities of detainee abuse. None of the hearing participants were able to foreclose debate on the issue by referencing the conclusions of a particular text; none, in other words, were able to resolve whether or not detainee abuse was widespread in Iraq and Afghanistan. During the hearing, however, the existence of this reality disjuncture (Pollner 1987) did not trigger attempts to resolve it, largely because major investigations remained open and hearing participants understood that the textual reality of detainee abuse was still developing.

“FAR BROADER [. . .] THAN ONE SET OF INCIDENTS PHOTOGRAPHED AT ONE PRISON”: THE REALITY OF WIDESPREAD ABUSE

On May 7, SASC hearing participants drew on disparate texts to produce contradictory claims about the geographic extent of detainee abuse. As the hearings advanced, however, the Committee and its witnesses confronted an evolving textual environment. Specifically, several major investigations and reports, which provided scaled-down representations of detention operations in Iraq and, eventually, Afghanistan, became available. This development in the textual environment—and interpretive work that secured a reality of “widespread abuse “in these texts—made it increasingly difficult for hearing participants to produce persuasive claims that abuse was limited to Abu Ghraib prison.

On May 7, the day of the Committee’s first hearing on abuse, *The Wall Street Journal* published selections from a previously classified February 2004 report of the ICRC; the full report was posted on the publication’s Web site on May 10. The ICRC’s investigation spanned the first nine months of America’s war in Iraq and included evidence gathered during 29 visits to 14 American prisons in the country. Significantly, the report documented that “ill-treatment during capture was frequent” and that:

persons deprived of their liberty under supervision of the Military Intelligence were at high risk of being subjected to a variety of harsh treatments ranging from insults, threats and humiliations to both physical and psychological coercion, which in some cases was tantamount to torture, in order to force cooperation with their interrogators. (International Committee of the Red Cross 2004)

The public release of this text had a profound impact on political discourse. Participants in the SASC’s hearings cited the text to ground their claims in detention and

interrogation operations across the United States' military operations in Iraq. Indeed, during the Committee's hearing on May 11 (a.m.), Democrat Senators Kennedy and Mark Dayton did just this. Kennedy's statement concerning the report illustrates this development.

[T]he ICRC collected allegations of ill treatment following the capture that took place in Baghdad, Basra, Ramadi, and Tikrit [. . .] It isn't only focused on this one prison camp, but lists the others, as well. I think we have to be aware of that. (May 11, 2004 [a.m.] in U.S. Congress 2005a:294)

Paralleling this development was a second one. From May 11 on, hearing participants who spoke of detainee abuse as *limited* to Abu Ghraib consistently qualified their claims. Unlike Generals Myers and Smith, who earlier suggested that abuse had only occurred at Abu Ghraib, hearing participants began differentiating between abuse at Abu Ghraib and abuse that occurred elsewhere. During the May 11 (a.m.) hearing, General Antonio Taguba twice made claims of this sort. Taguba testified to Senators Clinton and Ben Nelson, both Democrats, that his investigation had not found evidence of abuse similar to that which occurred at Abu Ghraib.

Taguba: There were—you might consider abuse, but that was in terms of slapping a prisoner, and there were—

Ben Nelson: Not similar type abuses as we have here.

General Taguba: Not to the gravity that was exposed, no, sir. (May 11, 2004 [a.m.] in U.S. Congress 2005a:352)

During the May 11 (p.m.) hearing, Republican Senator James Inhofe and a witness, General Keith Alexander, Deputy Commander of the U.S. Air Force, reached a similar conclusion, with Alexander observing that abuses “of this sort” and Inhofe observing that

“alleged abuses like those in the prison” at Abu Ghraib were not widespread (May 11, 2004 [p.m.] in U.S. Congress 2005a:512–13).

The influence of the ICRC report on political discourse may be observed in the emergence of the claim that abuse occurred throughout Iraq and in the qualifications built into claims that abuse of the kind photographed was unique to Abu Ghraib. Not all participants in the SASC’s hearings, however, presented the ICRC report as providing indisputable proof of serious and widespread instances of abuse in Iraq. During the Committee’s May 11 (p.m.) hearing, Alexander attempted to alter the prevailing meaning of the report. Specifically, Alexander suggested that the serious abuses documented in the ICRC report were those photographed at Abu Ghraib prison; he implied, in other words, that the ICRC report provided a vantage on abuse at Abu Ghraib prison and not on serious incidents of widespread abuse elsewhere. This treatment was a direct effort to make the meaning of the ICRC report consistent with the claim that serious incidents of detainee abuse were not widespread.

Alexander first made this argument when asked by Senator McCain about contradictory accounts of abuse. McCain cited the fact that Taguba had testified, earlier on the 11th, “that these abuses were somewhat confined to a relatively small area” (May 11, 2004 [p.m.] in U.S. Congress 2005:400). After General Alexander agreed that Taguba’s report found that “abuses of this nature” were not widespread, McCain continued by pointing out that the Committee was aware that “the ICRC issued a long series—a number of reports concerning prisoner abuses” (May 11, 2004 [p.m.] in U.S. Congress 2005a:401). McCain concluded, “Something doesn’t connect there” (May 11,

2004 [p.m.] in U.S. Congress 2005a:401). Alexander responded to McCain's questions by defining the textual reality of the ICRC report as identical to that of the photographs.

[W]hen I looked at that, and you look at the allegations, and you look at the pictures, you immediately make the connection that what the ICRC had and what the pictures said are the event. (May 11, 2004 [p.m.] in U.S. Congress 2005a:401)

Later in the hearing, Senator Dayton returned to the issue, questioning Alexander's statements about the ICRC report.

Dayton: General Alexander [. . .] are you asserting that the *Taguba Report*, the ICRC Report, and the pictures of the prisoner abuses that we saw last week all refer to the same limited number of events that were carried out by a few MPs, with a couple of unidentified low-level MI officials perhaps interacting with them to lead them to those actions?

Alexander: Sir, I'd note that in the ICRC Report it says that one of the detainees had women's underwear on their head. I, you, the American public saw that photo on TV. That led me to make that statement that those same things that they noted in their report we see in a photograph. (May 11, 2004 [p.m.] in U.S. Congress 2005a:504–5)

In his exchanges with McCain and Dayton, Alexander attempted to make the textually mediated vantage of the ICRC report identical to the vantage provided by the photographs taken at Abu Ghraib. This effort aimed at resolving a reality disjuncture between accounts that portrayed detainee abuse as largely isolated to Abu Ghraib prison and those that emphasized that detainee abuse had occurred throughout Iraq; it did so in a way that also confined the problem of detainee abuse to Abu Ghraib prison. By suggesting that the ICRC report and the photographs documented a single incident—"the event" at Abu Ghraib prison—Alexander attempted to alter the meaning of the ICRC report as an available resource for claims and to erode its evidentiary value for the claim that serious incidents of abuse were widespread.

Significantly, Alexander's attempt at defining the textually mediated vantage of the ICRC report involved texts (the photographs and the ICRC report) that did not have an assigned spokesperson. Unlike General Taguba's investigation, which Taguba himself spoke for during the May 11 (a.m.) hearing, neither the photographers from Abu Ghraib, nor the ICRC's investigators participated in the SASC's hearings. Instead, participants in the hearing introduced these documents, mobilizing them to support their own claims or to counter others' claims. Participants also competed to speak on behalf of these texts (Callon 1986; Latour 1987). Indeed, in Alexander's exchanges with McCain and Dayton, the three officials negotiated what, precisely, the ICRC report documented. For their part, both McCain and Dayton met Alexander's statements with considerable resistance. McCain responded by introducing his interpretation that the ICRC report revealed widespread incidents of abuse: "The ICRC alleged, as I understand it, that these situations were widespread, and not confined to just one small area" (May 11, 2004 [p.m.] in U.S. Congress 2005a:401). Later in the hearing, Dayton engaged in a lengthy exchange with Alexander.

Dayton: [T]he report, as I read it, refers to other abuses that occurred in that prison to other prisoners that didn't fit the descriptions in those pictures. But I guess I just wanted to clarify, for my own understanding, what you're implying here, because, as I read the ICRC Report, it refers to 14 other—or a total of 14 detention centers or prisons, and I don't know how to quantify the extent of the violations that they are alleging, but it certainly appears to be far broader and more systemic than one setoff incidents photographed at one prison. Would you concur with that sir, or do you—

Alexander: Yes, sir, I think—in the ICRC Report, there was one portion on Abu Ghraib—

Dayton: Right.

Alexander: —which is what I was referencing. (May 11, 2004 [p.m.] in U.S. Congress 2005a:505)

At stake in Dayton's exchange with Alexander was the ICRC report's textual reality and the interpretive work to which hearing participants could put it. If Alexander accurately portrayed the ICRC report—if, in other words, other hearing participants privileged his effort to speak on behalf of the report—then the ICRC report would no longer provide grounds for the claim that abuse was widespread through Iraq. If, however, Dayton accurately portrayed the report, then its prevailing meaning would hold. The exchange, then, is compelling evidence that the meaning of textual realities emerged through the interpretive work by which hearing participants fixed texts as “constant points[s] of reference” (Smith 2001:175). Indeed, the influence of the ICRC report depended on hearing participants' mobilizations and negotiation of its meaning. Specifically, in this exchange, Dayton mobilized the fact that the ICRC visited “a total of 14 detention centers or prisons” to lead General Alexander away from his claim that “what the ICRC had and what the pictures said are the event” and towards a qualified one: that a particular set of photographs might correspond to a particular *portion* of the ICRC report.

“A VERY BRUTAL AND BLOODY EVENT”: RATIONALIZING WIDESPREAD ABUSE

Alexander, having admitted that his claim was only applicable to “one portion” of the ICRC report, failed to fold the reality documented in it into the reality depicted in the photographs from Abu Ghraib. Meanwhile, during the Committee's hearings on May 19

and July 22, Senators Levin, Kennedy, and Byrd continued to claim that the ICRC report provided evidence of widespread abuse throughout Iraq. For instance, in his opening statement on May 19, Levin observed:

The February 2004 report of the ICRC presents an overview of documented abuses that extend beyond the conduct of interrogations at one cell block in one detention facility [. . .] The abuses that are alleged apparently are not limited to detention facilities. Many of the alleged violations are reported to have occurred at the time of arrest. (May 19, 2004 in U.S. Congress 2005a:565)

The release of photographs taken at Abu Ghraib prison made literal denial of abuse there unfeasible; the introduction of the ICRC report into the textual environment of the hearings did something similar: it provided evidence persuasive enough to establish that abuse had occurred throughout Iraq.

The report, however, did not force consensus on the nature of abuse. During the May 19 hearing, an exchange between Senator Byrd and General John Abizaid, Commander of the United States' Central Command, illustrates this fact.

Byrd: General Abizaid, the ICRC has alleged a pattern of abuse at detention centers in Iraq. With all due respect, how can you explain the culture of abuse that was allowed to develop in a prison system under your ultimate command?

Abizaid: I do not believe that a culture of abuse existed in my command [. . .] I believe that we have isolated incidents that have taken place. I am aware that the ICRC has its view on things. A lot of its view is based upon what happens at the point of detention where soldiers fighting for their lives detain people, which is a very brutal and bloody event. (May 19, 2004 in U.S. Congress 2005a:588)

In his response, Abizaid allowed that the ICRC might have observed events throughout Iraq *that the organization would call abuse*; he did not challenge that those events occurred. Rather, he suggested that the deduction from those events that a culture of abuse existed was wrong. He suggested, first, that the ICRC evaluates reality through a

particular “view on things” that the military does not share. Abizaid then offered an alternative portrayal of the violence as “what happens at the point of detention” and added an implicit rationalization, a variation of the claim of necessity: “where soldiers [who are] are fighting for their lives detain people, which is a very brutal and bloody event.”

As with Alexander’s attempt to reinterpret the ICRC report, Abizaid attempted to make the ICRC report consistent with the claim that serious incidents of abuse were confined to Abu Ghraib prison. Like Alexander’s effort, Abizaid’s also exploited the fact that the ICRC report did not have, within the Committee’s hearings, a privileged spokesperson. There was, in other words, no authority to adjudicate between Byrd’s presentation of the report and Abizaid’s. Alexander and Abizaid’s efforts, however, differed in important ways. Abizaid, unlike Alexander, did not attempt to deny that the ICRC report provided a vantage on American-detainee interactions throughout Iraq. Instead, he implicitly acknowledged their findings and highlighted that many of the incidents of abuse documented by the ICRC occurred during the arrest of detainees. Abizaid, however, reinterpreted what the report documented through a different “method of observing the world” (Pollner 1987:61). By introducing the claim of necessity, he also set favorable conditions for the minimization of abuse beyond Abu Ghraib prison.

Over the course of the final three hearings, developments in the textual environment provided a mediated vantage on a reality consistent with Abizaid’s claims. On July 22, General Paul Mikolashek, Inspector General of the Army, offered testimony

regarding the conclusions of his office's investigation into detention operations throughout the wars in Afghanistan and Iraq.

We determined that nearly half the cases [of confirmed or possible abuse], 45 out of the 94, took place at the point of capture [. . .] The point of capture is the place on the battlefield that is the most uncertain, dangerous, and violent. (July 22, 2004 in U.S. Congress 2005a:687)

On September 9 (p.m.), James Schlesinger and Harold Brown, both former secretaries of defense—Schlesinger under Presidents Nixon and Ford and Brown under President Carter—testified before the committee on the findings of the *Schlesinger Report* (Schlesinger 2004; formally, the *Final Report of the Independent Panel to Review DOD Operations*). Their report, as Senator Warner described it, provided a vantage on a reality similar to the one portrayed by General Mikolashek.

Over the past 3 years, the U.S. has apprehended over 50,000 personnel in Iraq and Afghanistan. As of mid-August 2004, only 66 out of the 50,000 gave rise to allegations of abuse that had been substantiated with one-third to one-half of those incidents occurring at the point of capture or during transit, periods which are often in the very heat of battle and extraordinary stress. (September 9, 2004 [p.m.] in U.S. Congress 2005a:1309)

The *Mikolashek Report* (U.S. Department of Army 2004) and the *Schlesinger Report* provided hearing participants a textually mediated vantage on detention operations in Afghanistan and Iraq; they map, in other words, a terrain that is geographically more extensive than that of the ICRC report. They also provided hearing participants with a new, interpretive resource: quantitative representations of abuse. The reports also provided compelling raw materials for various forms of denial and partial acknowledgment. I have already pointed out one: the rationalization of abuse at the point of capture, as first articulated by Abizaid. This rationalization was built into the

statements of Mikolashek and Warner reproduced above. During the July 22 hearing, Republican Senator Jeff Sessions and two witnesses—Les Brownlee, acting secretary of the army, and General Peter J. Schoomaker, Chief of Staff of the Army—also made this claim. During the September 9 (a.m.) hearing, Warner referenced abuse at the point of capture in this way; during the afternoon hearing that day, Republican Senators Session and Talent, as well as the Committee’s two witnesses, Schlesinger and Brown, offered similar statements. “The point of capture,” as typified (Best 1995) by these hearing participants, is the location at which abuse is understandable, if not predictable. As Senator Talent put it on September 9 (p.m.):

People going too far in an effort to get information in an insecure environment where their friends are being shot at and they are desperate to find out what is going on, while inexcusable in one sense, in another sense is at least understandable. (September 9, 2004 [p.m.] in U.S. Congress 2005a:1350)

The availability of a textual reality for events *outside* Abu Ghraib also allowed hearing participants to contextualize events *inside* the prison. For instance, in his opening statement during the September 9 (p.m.) hearing, Schlesinger acknowledged that “abuses were indeed more widespread than observed on the night shift at Abu Ghraib”; however, he described the abuse at Abu Ghraib “as having its unique aspects” and noted that he “characterized those activities by the night shift on Tier 1 as an ‘Animal House’” (September 9, 2004 [p.m.] in U.S. Congress 2005a:1315). Having characterized the events at Abu Ghraib as unlike the abuse that occurred elsewhere in Iraq and Afghanistan, Schlesinger then pointed out how partial the vantage provided by the photographs was and implied the importance of having a geographically extensive vantage on reality.

In this connection, President Kennedy said during the Cuban Missile Crisis that a picture is worth a thousand words. It clearly is if, and only if, one knows what the picture means. But if pictures are misinterpreted, they can readily become a distorting mechanism. That can easily create an inaccurate impression, hiding, indeed distorting the overall performance, as I have suggested with regard to our Armed Forces in Iraq. (September 9, 2004 [p.m.] in U.S. Congress 2005a:1315)

Schlesinger's panel member, Harold Brown, made a similar argument, testifying that the photographed incidents displayed "a pathology not, so far as we were able to find, duplicated elsewhere"(September 9, 2004 [p.m.] in U.S. Congress 2005a:1317). Later in the hearing, Senator Talent observed that he "would have been surprised if the kind of stuff I saw in those pictures was at all widespread because that was just sick" (September 9, 2004 [p.m.] in U.S. Congress 2005a:1350). Thus, Schlesinger, Brown, and Talent erected an interpretive wall between the abuse displayed in the photographs from Abu Ghraib and the abuse that occurred elsewhere during the wars in Afghanistan and Iraq.

Finally, and as the above statement from Senator Warner suggests, the quantifications of detainee abuse enabled hearing participants to downplay the significance of those very incidents (Hooks and Mosher 2005). By interpreting the quantified instances of abuse within other numbers—the total numbers of detainees captured during the wars in Afghanistan and Iraq and, in one case, the total number of interrogations that occurred at Abu Ghraib—hearing participants downplayed abuse as a unique occurrence during detention operations. Mikolashek and Brownlee employed this form of denial on July 22, Republican Senators Warner and Inhofe on September 9 (a.m.), and Senators Warner, Inhofe, Lieberman, and witnesses Schlesinger and Brown on September 9 (p.m.). A statement by Senator Lieberman—a Democrat at the time—that indicated that the substantiated incidents of abuse amounted to "a fraction of 1

percent of the detainees” (September 9, 2004 [p.m.] in U.S. Congress 2005a:1323) is illustrative of this claim. It is well documented that the use of statistics is endemic to the claims-making processes (Best 1990). To *build* a social problem, claims-makers prefer broad definitions of problems and “*big, official numbers*” (Best 1990:62; emphasis in original). It is not surprising, then, that to contain a potential problem (Schneider 1985) some hearing participants built their claims about detainee abuse with *relatively* small, official numbers (Potter 1996).

By disaggregating quantifications of abuse so as to produce the category “abuse at the point of capture,” official investigators provided themselves and hearing participants a rich material that could be combined with taken-for-granted beliefs about combat to downplay the mistreatment of detainees. This representation of abuse also permitted hearing participants to juxtapose the photographed violence at Abu Ghraib prison with the quantified violence throughout Iraq. And, by producing quantifications of abuse based on substantiated allegations and also quantifying the number of detainees captured by American soldiers, official investigators produced another resource for claims-making: abuse intelligible as a “fraction of 1 percent.”

CONCLUSION

Over the course of the Senate Armed Services Committee hearings, the claim that widespread abuse occurred during America’s wars in Afghanistan and Iraq became undeniable. In Cohen’s (2001) terms, hearing participants no longer engaged in the *literal denial* of abuse throughout Afghanistan and Iraq. Yet, by the Committee’s final hearing,

participants who spoke of the geographic extent of abuse did not engage in unqualified acknowledgments of it. During the September 9 (p.m.) hearing, four Republicans, one Democrat, and the Committee's two witnesses downplayed all incidents of abuse by contrasting substantiated incidents with the total number of detainees captured during the wars in Afghanistan and Iraq, rationalized abuse at the point of capture, or portrayed the photographed abuse at Abu Ghraib as unrepresentative of American practices elsewhere. Those hearing participants who had aggressively pursued the claim that abuse was widespread during the wars in Afghanistan and Iraq—Democrats Byrd, Dayton, Kennedy, and Levin—raised other topics, such as the issue of ghost detainees, the Department of Defense's pursuit of accountability for the events at Abu Ghraib, and the failure of the Department to plan for an insurgency in Iraq. They did not, moreover, present a sustained challenge to the claim that the violence at Abu Ghraib was unrepresentative of abuse elsewhere. Within the interpretive boundaries of the Senate Armed Services Committee hearings, the violence at Abu Ghraib prison had become isolated incidents amongst widespread, but understandable and politically inconsequential, incidents of abuse.

These developments in political discourse occurred in relation to changes in the textual environment. Specifically, the publication of photographs taken at Abu Ghraib prison foreclosed literal denial, the claim that nothing—deviant, legitimate, or otherwise—occurred at Abu Ghraib prison. Hearing participants took as their point of departure, to paraphrase Secretary Rumsfeld, that “things,” in fact, happened at Abu Ghraib. The photographs enabled hearing participants to scrutinize particular events in a

particular prison. They were “large-scale” representations of reality, showing a “relatively small area” (Montello 2001:13502) of detention operations. To establish the extent of abuse, participants drew on other textual materials, such as official investigations and the ICRC report, that portray a relatively large area of detention operations. While helpful when the question is the extent of abuse, scaled-down representations of violence may, however, facilitate other forms of denial. The textual realities scrutinized during the SASC’s final hearings provided a vantage on “widespread abuse” and, by the conclusion of the hearings, participants could speak of 65 instances of abuse, one-third of which happened at the point of capture. These representations, however, did not permit hearing participants to “see what [was] going on” (Smith 1990b:55) at the point of capture. Instead, they permitted officials to avoid talking about *particular* incidents of cruelty and hearing participants engaged in interpretive work around *types* of incidents and numerical representations.

It would be a mistake to describe the photographs taken at Abu Ghraib prison as more “objective” than official investigations; it would likewise be a mistake to endow the photographs with an affective power that written narratives of violence lack (Butler 2009; Susan Sontag 2003). In fact, constructionist research suggests that effective and affective claims about social problems *can* be made through narratives, such as “horror stories” (John M. Johnson 1995). Still, the photographs from Abu Ghraib, like horror stories, offer *local* representations of interpersonal cruelty that may be less easily rationalized and more evocative than those produced by “zooming out” of sites of violence. Indeed, doing so diminishes the visibility of those very aspects of interpersonal violence that render it

intolerable to liberal democracy: its ferocity, its seeming irrationality, the excesses of cruelty that the Abu Ghraib photographs showed. Accounts of abuse at the “point of capture,” on the other hand, fit that violence into a broader sequence of actions that provided it a justification—necessity.

Finally, this analysis also suggest that the “ownership” (Gusfield 1989) of social problems and historical events involves the ownership of the human and material resources, as well as access to the geographic sites, necessary to produce the textual realities that mediate discourse (Alexander 2004; Latour 1987, 2005; Loveman 2005; Scott 1999; Smith 1990b). During the SASC’s hearings, the textual reality of detainee abuse belonged, primarily, to the Department of Defense and the U.S. military, the organizations that established and conducted the investigations on which the SASC received testimony. No doubt, the photographs and the ICRC report provided textual realities in competition with those of these organizations. The Department of Defense’s and the military’s official investigators, however, largely “out constructed” their competitors, making a textual reality available to Committee members that was more extensive than those provided by the photographers at Abu Ghraib or the ICRC. By providing the “objective reality” of detainee abuse that participants in the SASC’s hearings confronted, interpretively deployed, and reflexively modified, the Department of Defense and the U.S. military exerted a contextual pressure on claims-making during the hearings. Just as importantly, at the time of these hearings, members of the Senate Armed Services Committee were themselves relatively impoverished claims-makers; they were,

in other words, dependent on the textual realities of others, including the very organizations whose actions Committee members scrutinized.

The situation reflects, in part, dominant political relations at the time of the hearing. With the American executive and legislative branches both controlled by Republicans, the Senate Armed Services Committee's hearings served as a venue for the amplification of the Department of Defense's and the military's findings, rather than as a venue for independent investigation (Danner 2004). As I argued in the previous chapter, the Senate Judiciary Committee's Chair, Orrin Hatch, excluded high-profile representatives of the executive from the Committee's hearing on allegations of detainee abuse at Metropolitan Detention Center in New York. Doing so, Hatch effectively suppressed the symbolic import of the Committee's hearing. In considering the Senate Armed Services Committee hearings on Abu Ghraib, it is appropriate to re-associate exclusionary practices, absences, with the silencing of perspectives. Indeed, no outside observer, human rights monitor, or expert in international law appeared before the Republican Committee. The official discourse of state officials and military elites, instead, spoke to the Committee of Abu Ghraib; it was only disrupted—and only occasionally so—by Senators who mobilized alternative discourses—that of the ICRC, for instance—circulating in media. Even then, these discourses only spoke by proxy—only spoke, that is, when introduced by a state official—and were often deconstructed by the Committee's witnesses.

4. Agency, Accountability and Abu Ghraib

Within Congress, the geographic isolation of Abu Ghraib prevented the photographs taken there from coming to represent the U.S.'s war in Iraq and the country's detention centers more generally. This, however, was insufficient to contain the toxic symbolics of the events at the prison. Hearing participants also constructed causal claims, explanatory accounts for the violence at the prison. In so doing, they competed to assign blame for the photographed violence—to associate some actors with the violence while interpretively cordoning off others from its polluting effects.

Over the course of the Senate Armed Services Committee's (SASC) 2004 hearings on U.S. detention operations, all military and civilian investigators consistently stated that the no policy, directive, or order permitted the photographed abuse.³¹ In statements and questions, Republican Senators John Warner, Jeff Sessions, and Jim Talent and amplified, inquired about, or repeated this finding. Against its current, a small group of senators, consisting predominantly, but not exclusively, of Democrats, argued that the abuse at Abu Ghraib prison resulted from the policy decisions of high-ranking military officials. These accounts rested on a controversial phrase and an equally controversial set of documents. The controversial phrase was "set the conditions"; it referred to a recommendation, made by General Geoffrey Miller, that military police in Iraq, who have responsibility for the everyday conditions in which detainees are held, facilitate military intelligence interrogations. The meaning of the phrase—the sort of MP behavior toward detainees it implied—was the subject of considerable debate during the

³¹ These witnesses were General Taguba, General Mikolashek, General Kern (the "Fay-Jones Report"), and James Schlesinger and Harold Brown (the "Schlesinger Report").

SASC's hearings. The controversial set of documents consisted of versions of the Interrogation Rules of Engagement (IROE) and, in particular, a "slide," allegedly from the Commanding General in Iraq, Ricardo Sanchez, that listed "harsh" interrogations techniques available for use in Iraq. In this chapter, I document efforts to press causal accounts that linked Miller's recommendation and Sanchez's interrogation rules of engagement to the abuses at Abu Ghraib. I also document the interpretive processes by which these links were effectively deconstructed, leaving in place a causal claim that construed the abuse at Abu Ghraib as an unforeseen result of, rather than a process organized by, policy decisions.

SOCIAL ACTION AND AGENCY: FROM SOCIOLOGICAL CONSTRUCTS TO SOCIAL CONSTRUCTS

In documenting the political competition to assign blame for the violence at Abu Ghraib, this chapter follows the *social construction of agency*. Agency is a highly-contested, but foundational component of sociological analysis. The German sociologist Max Weber provided an early, and influential, articulation of the sociological meaning of social action that emphasized the subjective orientation of a person to other human subjectivities.

Social action [...] may be oriented to the past, present, or expected future behavior of others. The "others" may be individual persons [...] or may constitute an indefinite plurality and be entirely unknown as individuals. (Weber 1997:112)

In this figuration of action, agency—the capacity to act—requires subjectivity, reflexivity, and intentionality (Cerulo 2009). These capacities came to dominate mid-20th century conceptions of agency in sociological analysis. So, too, did the broader project in

which Weber engaged—the operationalization of “agency” as a sociological construct. Agency typically appears, in sociological analysis, as the researcher’s construct—a capacity in the social world whose contours the sociologist clarifies independent of actors’ subjective understandings of it.

For the purposes of this chapter, two amendments to these common understandings of agency are necessary. First, and as implied above, I take a *constructionist* stance toward agency. This means that I document the ways that political elites relate action—in this case, those of the American soldiers involved in the photographed violence at Abu Ghraib—with its ultimate causes. Approaching agency in this way opens analysis to the “controversies over agencies” that ceaselessly populate the world with new actors, drives, and causes (Latour 2005:51). These controversies give agency its “figuration” or form (Latour 2005:53), relate agency to human action, and sustain some, while nullifying other, accounts. Throughout this chapter, I examine the ways that members of the Senate Armed Services Committee, civilians in the Department of Defense, and military officials figure the relationship between the events at Abu Ghraib and directives and recommendations made at the top of the military chain of command.

Second, by following action and agency in political discourse, this research also demonstrates that social actors construe non-humans as participants in social action. This observation requires a second amendment to the typical, sociological treatment of agency: it is not only a capacity of humans, but of non-humans as well. Typically,

sociological understandings of agency treat it as a uniquely human capacity. Again, we may use Weber's treatment of social action as an exemplar:

Not every kind of action, even of overt action, is "social" in the sense of the present discussion. Over action is non-social if it is oriented solely to the behavior of inanimate objects. Subjective attitudes constitute social action only so far as they are oriented to the behavior of others. (Weber 1997:112)

Over the past three decades, theory and research in the sociology of science, sociology of knowledge, and symbolic interaction have carved out the analytic space for non-human objects to participate in social action (Callon 1986; Cerulo 2009; Joseph Cohen 1989; Esala and Del Rosso 2011; Owens 2007; Weinberg 1997). As Latour puts it,

If action is limited a priori to what "intentional," "meaningful" humans do, it is hard to see how a hammer, a basket, a door closer, a cat, a rug, a mug, a list, or a tag could act. They might exist in the domain of "material" "causal" relations, but not in the "reflexive" "symbolic" domain of social relations. By contrast, if we stick to our decision to start from the controversies about actors and agencies, then *any thing* that does modify a state of affairs by making a difference is an actor [...] Thus, the questions to ask about any agent are simply the following: Does it make a difference in the course of some other agent's action or not? Is there some trial that allows someone to detect this difference? (2005:71)

François Cooren (2004) builds on Latour's approach to action to argue that texts, as a type of non-human, have agency, particularly within organizational settings.

"Created by human beings, these texts participate in the channeling of behaviors, constitute and stabilize organizational pathways, and broadcast information/orders" (p. 388). Texts stabilize and render mobile forms of human activity; they are vehicles, in other words, for influence: "the human who produced and designed texts can act *from a distance* across space and time" (Cooren 2004:380).

In this chapter, I consider, as Cooren does, the ways that texts move human influence—the ways they make a difference in a state of affairs. Unlike Cooren, I

privilege competitions over textual agency. I am not, in other words, interested in establishing how, precisely, particular texts “objectively” influenced the behavior of American soldiers at Abu Ghraib, but in documenting how participants in the Senate Armed Services Committee hearings construct agentic texts to account for that behavior. The analysis of these hearings shows that public officials are no less concerned and involved in elaborating the influence of texts in human activity and, in particular, human activity that is embedded in organizational contexts than are social scientists. Texts, material and electronic, provide the skeletal structure of contemporary forms of organization (Smith 2001) and, in particular, the state (Giddens 1987; Scott 1999). It should come as no surprise that the production of organizational and state problems involves characterizations of texts as part and parcel of those problems.

The remaining sections of this chapter document three controversies about the cause of the violence at Abu Ghraib prison. The first concerns General Geoffrey Miller’s recommendation that military police “set the conditions” for military intelligence interrogations. The second concerns Interrogation Rules of Engagement produced by the chain of command in Iraq for military interrogators. The third concerns the “migration” of detainee and interrogation policy from Guantánamo to Iraq. The first two debates focus on the influence of high-ranking, military officials on the low-level soldiers who appear in the photographs taken at Abu Ghraib prison. At the time that the violence at Abu Ghraib occurred, Geoffrey Miller was the Commander at Guantánamo; he was, after the revelation of abuse at Abu Ghraib, transferred to Iraq to oversee detention facilities there. Sanchez, who was implicated in the creation of interrogation rules of engagement

that appeared to permit coercive practices, was the Commander of Coalition Forces in Iraq. The third controversy is more complex; it involves the movement or “migration” of policies, including those authorized by the Secretary of Defense, from Guantánamo to Iraq.

“SET THE CONDITIONS”: THE CONTESTED MEANINGS OF GENERAL GEOFFREY MILLER’S RECOMMENDATION

In his opening statement on May 7, Senator Carl Levin, the ranking Democrat in the Committee, argued that the photographed violence at the prison was the outcome of a “conscious method of interrogation” (U.S. Congress 2005a:4). In his statement, Levin drew attention to a phrase, “set the conditions,” to ground this claim:

General Taguba's finding that, “personnel assigned to the 372nd Military Police (MP) Company were directed to change facility procedures to *set the conditions* for military intelligence interrogations,” is bolstered by pictures that suggest that the sadistic abuse was part of an organized and conscious process of intelligence-gathering. In other words, those abusive actions do not appear to be aberrant conduct by individuals, but part of a conscious method of extracting information. (May 7, 2004 in U.S. Congress 2005a:4; emphasis mine)

Between May 7 and May 19, the course of the Committee’s first four hearings, the phrase “set the conditions” would come under intense scrutiny. What, though, did the phrase mean? On May 7, Senators Kennedy and Reed joined Levin in the argument that the phrase offered compelling evidence that upper-level military or civilian officials had contributed to the abuse at Abu Ghraib prison. Contra this conclusion, Secretary of Defense Rumsfeld and Under Secretary of Defense Stephen A. Cambone suggested, during the May 7 hearing, that the phrase meant something less nefarious and considerably more technical. Specifically, Cambone and Rumsfeld suggested that the

phrase indicated the need for there to exist “coordination” (Cambone’s word) or a “linkage” (Rumsfeld’s word) between military police at Abu Ghraib and military intelligence. This coordination was meant to sustain and facilitate interrogations, not to establish an “organized and conscious process” of coercive or abusive interrogations. Secretary Rumsfeld’s comment, in which he attempted to clarify the issue after a lengthy exchange between Senator Reed and Cambone, is illustrative.

They found, in Guantánamo, that how they are detained, in terms of the rhythm of their lives, can affect the interrogation process. So the linkage between the [military police and military intelligence] is desirable if, in fact, you're concerned about finding more information that can prevent additional terrorist acts or, in the case of Iraq, the killing of our forces. So it's important that there be a linkage, a relationship. The way it can be put is that it has a bad connotation. Goodness knows, that's not desirable or a policy that General Miller would have recommended. (May 7, 2004 in U.S. Congress 2005a:42)

These opposing interpretations of the phrase spilled over into the Committee’s subsequent hearing on May 11, 2004. During the hearing, Senator Reed and Cambone again engaged in a lengthy exchange regarding the meaning of “set the conditions.” This time, Reed explicitly refused to accept that the phrase might mean something technical and benign. Reed cited the fact that the policy originated in Guantánamo where, at the time, detainees were not afforded the protection of the Geneva Conventions, and where, according to Reed, detainment and interrogation practices were “coercive.”

Reed: General Miller suggested that guard forces be used to “set the conditions.” Based on the template at Guantánamo, those methods were coercive. Yet you did not choose to ask about this. You're completely oblivious.

Cambone: No, sir. Again, what I said was, we knew what the circumstances were with respect to Guantánamo. We knew what the circumstances were with respect to Iraq. We understood that the Geneva Conventions, and all of its articles, applied in Iraq. That—again, I come back to what I keep saying here—the notion was that you had to have a cooperation, a cooperative attitude, team-building, call

it what you will between the MPs [military police] and—

Reed: Mr. Secretary, please.

Cambone:—the MIs [military intelligence].

Reed: Please.

Cambone: Sir—

Reed: This is not a cooperative attitude. This is not a guard observing the comments of a prisoner.

Later in the exchange, Reed would soften his position and suggest that, even if the term “set the conditions” was *intended* to increase cooperation between military police and interrogations, people “failed to ensure, by asking appropriate questions, that these recommendations were transmitted down to individual soldiers in a way that they would understand” (May 11, 2004 [a.m.] in U.S. Congress 2005a:340). Still, he suggested that the term referred to something less benign, distinguishing participation “in the ‘setting the conditions,’ as was done—as is done in Guantánamo” from mere cooperation (May 11, 2004 [a.m.] in U.S. Congress 2005a:340).

During the same hearing, General Taguba, whose report had provided Committee Democrats with the means to criticize Miller’s recommendation, implicitly lent weight to Cambone’s interpretation. In criticizing the policy, Taguba did not argue that it was nefarious—that the policy condoned, permitted, or encourage abuse. On the contrary, Taguba explicitly testified that his investigation “did not find any evidence of a policy or a direct order given to these soldiers to conduct what they did” (May 11, 2004 in U.S. Congress 2004:333). General Taguba’s criticism of the policy, however, was based in his understanding of military regulations. Specifically, Taguba’s report suggested, and

Taguba testified to the effect, that the enactment of Miller's recommendation put a Military Intelligence commander in charge of military police. Taguba, furthermore, believed that this was in contravention of military regulations, which prohibited military police from participating in interrogations and military intelligence activities. This criticism was not identical to that of Reed and Levin, who described the policy as establishing the use of coercive practices at Abu Ghraib.

Miller's recommendation, however, remained a matter of concern over the next two hearings, which took place on May 11 (p.m.) and May 19, when Geoffrey Miller appeared with other high-ranking military officials to give testimony to the Committee. In these hearings, the technical and benign meaning of the phrase stood and, notably, no Democrat referenced the phrase when speaking of an intentional process of coercive interrogation. Indeed, the policy recommendation was described in increasingly commonsensical terms. During the May 11 (p.m.) hearing, General Keith Alexander suggested that Miller's recommendation was meant to simply increase communication between MPs and MIs.

The people who understand the environment that those prisoners are in day in and day out, 24 hours a day, are the MPs, and the best way to understand that interrogation plan and the methods that the interrogator will use is the MP and the personnel who are around him, and that is one of the things that we need to have MP and MI talk about. Is this detainee or prisoner having a good day or bad? Has he been quiet, or has he been talking? What is the way to discuss this with him? (May 11, 2004 [p.m.] in U.S. Congress 2005a:392-93)

Senator Graham further portrayed the recommendation as commonsensical on May 19.

Graham: It is stupid to not be able to talk to the people who are running the jail about how the prisoner is doing that day before you interrogate him, right?

Miller: Yes, sir, that is exactly right. (May 19, 2004 in U.S. Congress 2005a:608)

Still, it remained possible to criticize the policy, and hearing participants questioned whether it was advisable, consistent with military regulations, and well-understood by those tasked with implementing it. Importantly, however, the recommendation was no longer treated as a euphemism for coercive practices. Instead, its relation to the abuse at Abu Ghraib became more complex. Senators Kennedy and McCain suggested that the term was likely misunderstood by those tasked with implementing it. McCain pushed this claim particularly hard, noting that it appeared that military police received orders from military intelligence to abuse detainees at Abu Ghraib. Miller, for his part, maintained that “leadership that received the recommendations [...] had a clear understanding of the recommendations that we made in those three areas of intelligence fusion, interrogation, and humane detention” (May 19, 2004 in U.S. Congress 2005a:581). To McCain’s follow-up point that “there must have been a breakdown somewhere,” Miller responded that if a breakdown occurred, it had occurred after his visit (May 19, 2004 in U.S. Congress 2004:582). Regardless of this, the Committee had effectively transitioned away from the claim that the recommendation that military police “set the conditions” for interrogations meant that an abusive interrogation policy had been established. In so doing, they turned toward one that suggested a misinterpretation of this recommendation may have led to abusive results. This, in turned, suggested that the causal link between the recommendation and the abuse had become weakened. It was no longer direct, from Miller, via the recommendation, through military intelligence to the military police whose actions were photographed at Abu Ghraib. Instead, this account suggested that the recommendation had, in fact, veered

dramatically off its intended course, and only resulted in abuse because of relatively low-level and “local” failures at Abu Ghraib prison.

Several Committee Republicans (Graham, Cornyn, Inhofe, Roberts, and Chambliss), two witnesses (Generals Alexander and Smith) and one Committee Democrat (Bill Nelson) further weakened the causal link between Miller’s recommendation and the photographed abuse. They did this by consistently praising Guantánamo and Miller for his work there. During the May 19 hearing with General Miller, Senators Roberts asked Miller to discuss policies at Guantánamo Bay.

Roberts: Would the abuse evidenced in the photos be permitted or condoned at any of the practices or policies at Guantánamo Bay?

Miller: Senator, they would not. (May 19, 2004 in U.S. Congress 2005a:585)

Senator Chambliss, in turn, asked him to discuss abuses at Guantánamo.

Chambliss: General Miller, the situation at Guantánamo has been alluded to by a number of folks during this process. I have been down there a couple of times. I had the opportunity to visit the prison, both before the new camp was built as well as afterwards, and I saw the interrogation of prisoners down there. From what I saw, and from what I have heard, there has been no systemic prisoner abuse that was ongoing at any point in time at Guantánamo, and I just wish you would address that very quickly, if you will, please.

Miller: Thank you, Senator. Sir, there was no systemic abuse of prisoners at Guantánamo at any time. I believe that there were three or four events.³² [...] It was the effect of strong, dynamic leadership by the chain of command 24 hours a day, 7 days a week, that did not allow the abuse to happen. We walked the cell blocks and the interrogation booths of Guantánamo around the clock—not because we did not trust our people, but this is a very difficult mission, and it takes active engagement by leadership to ensure that it is done correctly. That is why, in Guantánamo, because of the enormously talented people who were there—75 percent, as most of you know, were Reserve component leaders—we

³² After the hearing, additional information was added to the hearing transcript. This information stated that “there were a total of eight instances of minor abuse requiring administrative action” (U.S. Congress 2005a:604).

were successful. (May 19, 2004 in U.S. Congress 2005a:604-05)

Earlier, I cited Senator Reed's statement that coercive methods were available at Guantánamo and, because of this, the phrase "set the conditions" referred to such practices. While Reed did not explicitly contest the propriety of these practices at Guantánamo, he did suggest that they were actively brought to Abu Ghraib prison in Iraq, a place where the Geneva Conventions applied and where such practices would be inappropriate. Miller's testimony, however, implicitly contested such an account. His policies, he claimed, did not permit anything shown in the Abu Ghraib photographs; further, the abuses that had occurred at Guantánamo Bay were qualitatively different and far less severe than those at Abu Ghraib prison. After this hearing, Miller's recommendation did not appear in any significant account of abuse at Abu Ghraib prison;³³ one Senator, Republican Jeff Sessions, went so far as to describe it on July 22 as a "minor nothing" (July 22, 2004 in U.S. Congress 2005a:1006).

"A SMOKING GUN OF ILLEGALITY AND IMPROPRIETY": THE CONTESTED MEANINGS OF A TEXT

Alongside the controversy over Miller's recommendation was a second one, which concerned the Interrogation Rules of Engagement that the military chain of command in Iraq provided military interrogators. These documents suggested that high level officials—notably, the Commanding General Ricardo Sanchez—had made harsh

³³ On July 22, 2004, Senator Car Levin asked General Paul Mikolashek, the Inspector General of the Army, about how he interpreted Miller's recommendation and General Taguba's criticism. Mikolashek, as well as the other witnesses that appeared before the Committee (Secretary of the Army Les Brownlee and Chief of Staff of the Army General Peter Schoomaker) did not criticize the policy and Brownlee and Schoomaker both noted that it did not allow for abusive practices. Levin did not offer any meaningful counter-claim to their statements.

interrogation techniques, including sleep management, sensory deprivation, isolation, and the use of dogs, stress positions, and dietary manipulation—available for use in Iraq. In competing to establish the meaning of the interrogation rules of engagement—their causal relation to the abuses at Abu Ghraib—hearing participants employed what Michael Lynch and David Bogen (1996) refer to as the documentary method of interrogation, the use of material documents as “resources for questioning a witness” (p. 214). Committee members employed the set of interrogation rules of engagement documents and, in particular, a slide listing authorized interrogation practices to establish or deconstruct causal chains between Sanchez and the abuses at Abu Ghraib.

On May 11, Senator Levin first raised the interrogation rules of engagement issue, reading to Secretary Cambone a sentence from an annex of the Taguba Report (see Figure 5 for a document approximating Levin’s remarks).

The interrogation officer in charge will submit memoranda for the record requesting harsh approaches for the commanding general’s approval prior to employment—sleep management, sensory deprivation, isolation longer than 30 days, and dogs. (May 11, 2004 in U.S. Congress 2005a:287)

Figure 5. IROE (Interrogation Rules of Engagement).³⁴

IROE

- All techniques are approved for use on civilian detainees / security detainees
- Interrogation OIC will submit MFRs requesting harsh approaches for the CG's approval prior to employment (sleep management, sensory deprivation, iso longer than 30 days, dogs)
- Detainees will NEVER be touched in a malicious or unwanted manner
- Wounded or medically burdened detainees will be medically cleared prior to interrogation

Over the course of the next four hearings, debate focused on this observation, as well as on a slide (Figure 6 below) that also appeared to suggest that Sanchez had given American interrogators permission to use harsh interrogation approaches. Senators (and predominantly Democrats) raised questions about the legality of the techniques—whether, that is, they would be allowed under the Geneva Conventions and military regulations—and the responsibility of General Sanchez for approving the techniques. As they did when discussing the phrase “set the conditions,” Senate Democrats frequently interpreted these documents as suggesting that high ranking officials in the military chain of command bore responsibility for the abuse at Abu Ghraib prison.

³⁴ The document displayed in Figure 1 is available in Annex 40 of the Taguba Report (“JIDC Joint Interrogation & Debriefing Center, Abu Ghurayb, Iraq), which is available at <http://www1.umn.edu/humanrts/OathBetrayed/Taguba%20Annex%2040.pdf>.

Figure 6. Interrogation Rules of Engagement.³⁵

INTERROGATION RULES OF ENGAGEMENT

Approved approaches for

All detainees:

Direct
Incentive
Incentive Removal
Emotional Love / Hate
Fear Up Harsh
Fear Up Mild
Reduced Fear
Pride & Ego Up
Futility
We Know All
Establish Your Identity
Repetition
File & Dossier
Rapid Fire
Silence

Require CG's Approval:

Change of scenery down
Dietary Manip (monitored by med)
Environmental Manipulation
Sleep Adjustment (reverse sched)
Isolation for longer than 30 days
Presence of Mil Working Dogs
Sleep Management (72 hrs max)
Sensory Deprivation (72 hrs max)
Stress Positions (no longer than 45 min)

Safeguards:

- ~ Techniques must be annotated in questioning strategy
- ~ Approaches must always be humane and lawful
- ~ Detainees will NEVER be touched in a malicious or unwanted manner
- ~ Wounded or medically burdened detainees must be medically cleared prior to interrogation
- ~ The Geneva Conventions apply within CJTF-7

**EVERYONE IS RESPONSIBLE FOR ENSURING COMPLIANCE TO THE IROE.
VIOLATIONS MUST BE REPORTED IMMEDIATELY TO THE OIC.**

The use of the techniques are subjects to the general safeguards as provided as well as specific guidelines implemented by the 205th MI Cdr, FM 34-52, and the Commanding General, CJTF-7

This debate developed over the course of the Committee's May 11 (a.m.), May 11 (p.m.), and May 19 hearings. On May 11, 2004 (a.m.), statements and exchanges on these documents were rather general. Levin questioned Under Secretary Stephen Cambone about his awareness of the availability of harsh interrogation techniques in Iraq; Cambone testified that he was unaware that such techniques were permitted. Senator Kennedy asked Cambone whether Secretary Rumsfeld had permitted harsh interrogation techniques to be used in Iraq; Cambone testified that he had not. In these exchanges,

³⁵ The document displayed in Figure 2 is available in several of the Taguba Report's annexes, including Annex 28, Annex 40, and Annex 93. This particular image of it was copied from Annex 40.

Cambone testified that General Sanchez (as opposed to Rumsfeld or Cambone) had developed the interrogation techniques rules of engagement and could approve their use by interrogators in Iraq. During the May 11 (p.m.) hearing, Senator Levin questioned two witnesses, Generals Keith Alexander and Ronald Burgess, about the legality of the interrogation techniques; both Senators Levin and John Warner, the Republican Committee Chair, asked whether Sanchez had approved any harsh interrogations.

On May 19, with Generals Sanchez, Miller, and John Abizaid testifying to the Committee, a broader, less partisan group of Senators posed related questions to the witnesses. Senators Levin, Byrd, Reed, Mark Dayton, Hilary Clinton (Democrats) and Susan Collins (a Republican) questioned General Sanchez about whether he had approved the document; Senators Dayton, Reed and Collins also asked Sanchez whether he had granted permission for the use of any aggressive interrogation techniques in Iraq. Reed and Clinton questioned General Miller about whether he was aware or had been briefed on the content of the documents during his visit to Abu Ghraib in August of 2003. And Senators Reed and Joseph Lieberman questioned witnesses about the legality of the interrogation techniques listed on the slide. Indeed, on this day, questions and statements on this document were more frequent than they had been previously. They were also relatively dramatic, with Senators holding up, gesturing at, and reading from the rules of engagement slide, employing it as a prop for the performance of congressional oversight.

These questions constituted the interpretive boundaries of the debate about the Interrogation Rules of Engagement in Iraq. And, as with the phrase “set the conditions,” official responses to these questions downplayed, if not outright denied, the link between

the military chain of command and the document, as well as that between the document and the abuse at Abu Ghraib prison. The document, for instance, was consistently and promptly disowned. As noted above, Senator Cambone testified that he was unaware the listed techniques were approved for use in Iraq. While, on May 11 (p.m.), General Alexander attributed the slide to General Sanchez, Sanchez testified on May 19 that he had first seen the document when it was discussed in an earlier Senate Armed Services Committee hearing. During this hearing, in an exchange with Senator Clinton, Colonel Warren, a Staff Judge Advocate, revealed that the slide had been drafted by Captain Carolyn Wood, a military intelligence battalion commander, not Sanchez. In a follow-up question to General Miller, Clinton challenged the claim that the document had been “developed at a relatively low level” (May 19, 2004 in U.S. Congress 2005a:605) by citing a finding from an annex in the Taguba Report that suggested the document had been briefed to Miler when he visited Abu Ghraib prison in 2003. Miller denied this and that the document’s contents had been briefed to him.

The disavowal of the document was not, on its own, sufficient to sever its link to the abuses at Abu Ghraib prison. Significantly, Sanchez testified to Senator Byrd that he had approved interrogation rules of engagement (on September 12, 2003 and “again in the October time frame”) but that he had not “seen the specific slide that was referred to” (May 19, 2004 in U.S. Congress 2005a:587). Although not publicly available at the time, the September 14, 2003 memoranda on “interrogation and counter-resistance policy” permitted the very same techniques, with Sanchez’s approval, listed on the controversial

right side of the slide presented in the Committee's hearing.³⁶ The October memoranda, which was part of the *Taguba Report* annex (but was not publicly released until October, 2004), did not list all of these interrogation techniques, but permitted (with approval) the presence of military dogs during interrogations and suggested that interrogators could seek approval for interrogation techniques *not* described in the memoranda.

General Sanchez, in other words, denied approving a document and its presentation of what were, at least in September, 2003, the interrogation practices that he approved for use. This issue, however, was not raised during the Committee's hearing. Just as importantly, had the issue been raised, it would have remained difficult to produce a direct causal link between Sanchez and the abuse. The October Rules of Engagement established a route by which influence—Sanchez's—might end up at Abu Ghraib. But by the injunction that interrogators must seek Sanchez' approval it left that influence dormant—only further requests for authorizations could activate that influence. During the May 11 (a.m.), May 11 (p.m.), and May 19 hearings, witnesses, including Sanchez himself, testified that he had only granted approval for one additional interrogation technique, the use of segregation in excess of thirty days. Sanchez, in Senator Sessions words, had only permitted military interrogators to do what “is done in American prisons every day” (May 19, 2004 in U.S. Congress 2005a:595).

Alongside the disavowals of the Interrogation Rules of Engagement slide and the claims that Sanchez had only approved segregation were challenges to the stigma

³⁶ The date of this memoranda—September 14, 2003—conflicts with the date given by Sanchez during the hearing, September 12. The hearing transcript offers no explanation of this discrepancy; it is possible, though, that Sanchez confused the date of the October memoranda, October 12, with the date of the September memoranda. This memoranda was publicly released in late-March, 2005 and is available at <http://www.aclu.org/files/FilesPDFs/september%20sanchez%20memo.pdf>.

associated with the slide. On May 19, Senator Sessions and Colonel Warren praised those who produced the slide for promoting safeguards and regulations that would keep American interrogators within the bounds of the Geneva Conventions. To do so, hearing participants emphasized certain aspects of the slide that appeared alongside the list of interrogation techniques requiring General Sanchez's approval. Senator Sessions, for instance, engaged in an exchange with Sanchez in which the two expressed agreement that the slide was, in Sessions words, "a restrictive document."

Sessions: [A]s I read this document—this is a restrictive document that says such an action must have the direct approval of the commanding general. Is that the way you understand it, General Sanchez?

Sanchez: Sir, that is the way I read that document also.

[...]

Sessions: I would like to note that, in big print here, it says, "Safeguards. Approaches must always be humane and lawful. Detainees will NEVER"—in capital letters—"be touched in a malicious or unwanted manner." Were the actions in this prison in violation of that directive? The allegations and the pictures we have seen, those would be in violation of that directive, would they not?

Sanchez: Sir, if those allegations are proved in the investigative process to be true, those would be violations. (May 19, 2004 in U.S. Congress 2005a:595)

Later in the hearing, Colonel Warren asked Senator Clinton to

[N]ote, ma'am, what is on the bottom. That is something that often is overlooked, because that captain did not do a bad job. That captain paraphrased the safeguards that are in enclosure two of our Counter-Resistance and Interrogation Policy. You will note that they talk about the requirement to treat everyone with humanity, to follow the Geneva Conventions, and to never unlawfully touch a person who is under interrogation. (May 19, 2004 in U.S. Congress 2005a:607)

Even as the slide suggested that American interrogators had permission to use harsh interrogation techniques, so long as they seek approval from General Sanchez, the slide

also demanded that American interrogators treat detainees humanely and in ways consistent with the Geneva Convention. It both permitted and prohibited what some of the Abu Ghraib photographs showed.

Finally, military officials argued that these use of the “harsh” interrogation techniques listed on the slide would not, in and of themselves, violate the Geneva Conventions or military regulations. Generals Alexander and General Thomas Romig, a Judge Advocate General for the U.S. Army, made this claim on May 11 (p.m.); on May 19, Colonel Warren also forwarded it. While perhaps an unsurprising claim, it is also particularly important, as it is a recurring one and also one that relies on rather subtle assumption about the relationship between written orders or policies and the actual practices of U.S. soldiers and interrogators. The first assumption was that written orders would be enacted without deformation. Colonel Warren, after telling Senator Lieberman that the controversial interrogation policies “are not, in and of themselves, in isolation, violations of the Geneva Conventions” (May 19, 2004 in U.S. Congress 2005a:612), further explained,

Those on the right, again, are the range of things that may very well in implementation not be authorized. In particular, given the intensity, the magnitude, the duration, and the combination of measures, they may very well, as Senator Reed suggested, violate the Geneva Conventions. You have to look at it on a case-by-case basis. (May 19, 2004 in U.S. Congress 2005a:615)

The slide, in other words, permitted techniques that, if used in particular ways, would violate the Geneva Conventions; however, the slide, by establishing safeguards for the use of the techniques, would lead interrogators to use these techniques in a way consistent with the Geneva Conventions.

This construction of the slide is strategically useful, as it depresses Sanchez's culpability for the behavior of his subordinates at Abu Ghraib. It also resonates with the dynamics of organizational behavior. "Superiors do not like to give detailed instructions to subordinates [...] Pushing down details relieves superiors of the burden of too much knowledge, particularly guilty knowledge" (Jackall 1989:20; Luban 2007). Indeed, there is evidence from the Committee's hearings that terms, such as "sleep deprivation," "stress positions," and "environmental manipulation," withhold as much direction as they provide. This is explicitly argued by military witnesses, such as Warren.

To use a term I have learned in the past week in Washington, the optics are bad on that chart. But if you read the actual definitions you will find, for example, with regard to environmental manipulation, it sounds horrible. But the fact is that environmental manipulation can be as simple as, while at all times maintaining the minimum requirements of the Geneva Conventions, that a person who cooperates in interrogations would get an air conditioned room. A person who is not cooperating gets the minimum, non-air conditioned room. (May 19, 2004 in U.S. Congress 2005a:614)

This was also *dramatized* by the relative difficulty Generals Romig and Alexander had explaining military regulations on interrogations to Senator Levin. Levin initiated the exchange by asking whether the Geneva Conventions permitted the listed harsh interrogation techniques. Romig did not answer this question directly, admitting that "this is the first that I've seen of these"; Romig further stated that he believed that the orders had received "an exhaustive legal review" and, as they had ostensibly been approved, he would agree with that interpretation of them (May 11, 2004 [p.m.] in U.S. Congress 2005a:534). Romig, however, observed that the interrogation techniques derived from the military's field manual on interrogations. After a brief exchange in which Levin tried to establish which field manual Romig referred to, Levin asked "So

those specific items are listed in that FM?”³⁷ To this, General Alexander responded, “Yes, sir.” Levin, Romig, and Alexander then discussed the legal review that the rules of engagement underwent. Alexander could not name the lawyer who conducted the review and additional information added to the hearing transcript after the public hearing noted that the slide was “informally reviewed” by military lawyers (May 11, 2004 [p.m.] in U.S. Congress 2005a:534). Levin then continued the earlier line of questioning about the Army’s field manual. During it, Alexander reversed himself on whether the Field Manual listed the same techniques as on the slide and then discussed what the Field Manual did say about stress positions and sleep deprivation.

Levin: Just so I can be real clear again, that FM specifically lists these items with the same words?

Alexander: No, sir. In fact, I'll give you the manual, a copy of the manual to leave here with the committee.

Levin: That would be very helpful, but my question is, does the FM say specifically that you can apply stress for up to 45 minutes?

Alexander: No, sir, it does not say you can apply stress up to 45 minutes. [...] What it says here in the manual is that you can't use stress positions for a prolonged period of time is exactly what it says.³⁸

Levin: So that's been interpreted by a lawyer to mean up to 45 minutes?

Alexander: Yes, sir.

Levin: Unless you get something approved in writing and then it says sleep management, and what are the words in the manual, about 72 hours without

³⁷ This exchange is itself riddled with difficulties. General Alexander first described the field manual as a version from 1984, only to immediately correct himself by noting the manual was dated 1992. He also provided the pages on which the interrogation techniques appear (“roughly 3-16”) that only lists *some* of the techniques on the uncontroversial *left* side of the slide.

³⁸ The phrases “prolonged period of time” and “abnormal sleep deprivation” appear on page 1-8 of the 1992 version of FM34-52, which was current as of the 2004 hearings and is available at http://www.loc.gov/rr/frd/Military_Law/pdf/intel_interrogation_sept-1992.pdf.

sleep?

Alexander: It says abnormal sleep deprivation, examples of mental torture include abnormal sleep deprivation. I understand that at the general counsel's, as they convene to look at what sleep deprivation, and again, that would go on, but they looked at exactly, okay, so what is sleep deprivation, is that 16 hours in a day, and so they went through that and those are the periods, and you can see that because those have caveats in the FM, those are the ones that General Sanchez personally had to get involved with.

Levin: No, I understand that, that's if it's more than 72 hours, but I'm talking about the—

Alexander: Sir, it says 72 hours—

Levin: You're correct. What are the words in the manual about sleep management or sleep—

Alexander: Abnormal sleep deprivation.

In Alexander's articulation, so much depends on the meaning of "abnormal" and "prolonged," phrases defined by lawyers so as to allow interrogators to approach, but not exceed, prohibited interrogation techniques.³⁹ The relative inscrutability of military regulations and prohibitions is magnified by information added to the hearing record that notes, contrary to Alexander's statements, "'Sleep deprivation' is not an approved interrogation technique in U.S. Army Field Manual 34-52" (May 11, 2004 [p.m.] in U.S. Congress 2005a:535).

The "agency" of the interrogation rules of engagement slide, as construed by military officials, is complex. It established two distinct lines of influence. Both spanned the social space between General Sanchez and his subordinates. The first *informed* interrogators of available practices for interrogation; this is the list on the right hand-side

³⁹ See Waldron (2005) for an argument against a legal arguments that pose torture prohibitions as speed limits.

of the slide, under the heading “Requires CG Approval.” This line of influence, however, did not *permit* or *authorize* interrogators to use of these techniques. Rather, it *directed* interrogators to seek further approval for the practices. This line of influence, then, was partial and passive; it required further organizational activity for its realization. The second line of influence, inscribed in the list of “safeguards,” was designed to stand on its own. It *directed* interrogators to conform to the Geneva Conventions and *forbid* interrogators from treating detainees in an inhumane way. Significantly, neither line of influence would allow one to travel from Sanchez to the photographed violence at Abu Ghraib.

MIGRATING POLICY

On September 9, 2004, the Senate Armed Services Committee held its final two hearings on detainee abuse until after the 2004 American elections. The first hearing involved members of the military’s investigations of military intelligence activities at Abu Ghraib prison, the *Fay-Jones Reports*. Generals George R. Fay and Anthony R. Jones, the lead investigators for the reports, and General Paul J. Kerns, the Army’s Procedure 15 appointing authority, gave testimony about their reports. The second hearing involved two former Secretaries of Defense, James Schlesinger and Harold Brown. Schlesinger chaired an independent panel tasked by Secretary Rumsfeld to review Department of Defense detention operations (the *Schlesinger Report*); Brown was one of three panel members.

During these hearings, a specific and fairly well-defined causal account of the abuses at Abu Ghraib emerged. This account emphasized two things. First, this account emphasized that policies designed for Guantánamo Bay detention facility and Afghanistan “migrated” to Iraq and, more specifically, Abu Ghraib prison. Second, this account emphasized that this migration of policy, as well as shifting rules of engagement in Iraq, contributed to confusion at Abu Ghraib.

This account, as articulated by Senator Levin during the first hearing and Levin and Harold Brown during the second, had a well-defined chronological dimension. It began with the Bush administration’s decision after the September 11 terrorist attacks to deny captured alleged members of al Qaeda and the Taliban prisoner of war status under the Geneva Conventions and to declare that detainees would be treated “humanely, and to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of the Geneva Conventions” (Bush in Greenberg and Dratel 2005:135).

This led to, in the words of Harold Brown,

a series of determinations about allowed interrogation methods beyond those long customary under Army Field Manual (FM) 34-52. [T]he Secretary of Defense authorized and then rescinded a list of such methods for Guantánamo. After study by a working group that was headed by the Air Force General Counsel, he promulgated a narrowed-approved list, again limited to interrogations of unlawful combatants held at Guantánamo. (September 9, 2004 [p.m.] in U.S. Congress 2005a:1318)

This process involved, as Senator Levin pointed out, Office of Legal Counsel opinions, including

one dated August 1, 2002 that, according to this panel, “held that in order to constitute torture, an act must be specifically intended to inflict severe physical pain and suffering that is difficult to endure.” (September 9, 2004 [p.m.] in U.S.

Congress 2005a:1311)⁴⁰

These decisions and opinions led, according to this account, to the development of interrogation policies that were, as Levin read from the Fay-Jones Report, ““not completely consistent with Army doctrine concerning detainee treatment or interrogation tactics”” (September 9, 2004 [a.m.] in U.S. Congress 2005a:1048) and that, according to Brown, “went beyond those long customary under Army Field Manual 34-52” (September 9, 2004 [p.m.] in U.S. Congress 2005a:1318). These new, unconventional policies were meant for use in the detention facilities at Guantánamo Bay, where the Geneva Conventions did not protect detainees; however, according to Brown,

various versions of expanded lists migrated, unauthorized, to Afghanistan and to Iraq where the Geneva Conventions continued to apply [...] That migration of rules and of personnel led to confusion about what interrogation practices were authorized and to several changes in directions to interrogators. I believe that was a contributing factor in the abuse of detainees. (September 9, 2004 [p.m.] in U.S. Congress 2005a:1319)

Compared to the consistent finding that no policy permitted torture, the “migrating policy” account is something of a compromise, a nod of official acknowledgment. It integrates revelations about Office of the Legal Counsel and Department of Defense interrogation policies that were not known to the public when the Abu Ghraib photographs were first released. Specifically, it accommodates the revelation that Secretary Rumsfeld had personally authorized the use of interrogation practices beyond those listed in the military’s Field Manual for use at Guantánamo. In December, 2002, Rumsfeld signed a memoranda granting approval for the use of stress positions,

⁴⁰ Levin’s reading from the *Schlesinger Report* quotes from a memoranda from John Yoo to Alberto Gonzalez. See Greenberg and Dratel (Greenberg and Dratel 2005).

isolation, hooding, sensory deprivation, removal of clothing, and “mild, non-injurious contact.” The account also implicitly recognizes, in the acknowledgment of “confusion,” the influence of the social psychological context on American soldiers and interrogators. Indeed, the Schlesinger Report included an annex that drew on the findings of the Zimbardo experiment (Haney et al. 1973). The account also overlaps, in important ways, with strain theories of deviance that suggest that crime and deviance are one response to the institutional overemphasis on outcomes and indifference to or confusion over the means of pursuing those outcomes (Merton 1938; Vaughan 1985).

At the same time, the account mystified a key process: that of the interrogation rule’s migration. Indeed, during the first September 9 hearing, General Kern acknowledged that no official investigation had sufficiently addressed this issue. He then offered an account that suggested the migration of the interrogation rules was inadvertent and, largely, determined by technological developments in communication.

I believe that part of the answer, personally, is that we are in the information age and the information that we found on computers that were located in the prison virtually came from everywhere. So the worldwide web works, and information which as being debated back here in the United States found its way into the hard drives of the computers that we found in the prison. So that is part of today's world that we have to learn how to deal with, in this flow of information.
(September 9, 2004 [a.m.] in U.S. Congress 2005a:1065)

The lack of information concerning how policies migrated led to statements that used the passive voice to describe the movement or, conversely, described the policies as moving by their own volition. Kern, for instance, told Senator Sessions, “There were policy directives that resulted in techniques to be used not in Iraq that found their way in there” (September 9, 2004 [a.m.] in U.S. Congress 2005a:1107). During the second hearing,

both Senator Levin and Brown described the policies as agents of their own migration.

Levin: [T]he more aggressive original techniques were applied in Afghanistan and migrated to Iraq where they were used at Abu Ghraib. (September 9, 2004 [p.m.] in U.S. Congress 2005a:1311)

Brown: All that said, nevertheless, various versions of expanded lists migrated, unauthorized, to Afghanistan and to Iraq. (September 9, 2004 [p.m.] in U.S. Congress 2005a:1319)

In addition to being an agent-less (and unauthorized) migration, this account of the Abu Ghraib abuses did not actually problematize the very interrogation rules whose migration resulted in confusion at Abu Ghraib prison. While some of these policies are described by Schlesinger as “over the top,” they are not, in and of themselves, condemned or described as “abusive” or “torture” policies. Indeed, even Senator Levin, who consistently attempted to link policy decisions to the abuses at Abu Ghraib prison, did not explicitly condemn the migrating policies, which he described, in his opening statement on September 9 (a.m.), as “harsh interrogation techniques going beyond established Army doctrine for use at Guantánamo Bay” (September 9, 2004 [a.m.] in U.S. Congress 2005a:1048). In that statement, Levin posed questions about the migration of those policies and did not explicitly challenge the policies appropriateness at Guantánamo Bay.⁴¹

In fact, the policies that hearing participants described as migrating—that is, the policies at Guantánamo Bay—were also described as prohibiting the photographed abuses. General Kern, for instance, pointed out that some actions at Abu Ghraib, such as the use of a muzzled dog during interrogation, was “not even possible in Guantánamo”

⁴¹ It is possible that Levin intended to stigmatize the policies and their makers by portraying them as producing abuse at Abu Ghraib prison.

(September 9, 2004 [a.m.] in U.S. Congress 2005a:1108). Brown and Schlesinger, in an exchange with Senator Sessions, stated that the policies actually *prohibited* the photographed violence (September 9, 2004 [p.m.] in U.S. Congress 2005a:1346). It was, fully, the confusion caused by the migration of policies and the frequent changes to interrogation rules of engagement in Iraq, rather than what the policies permitted, that resulted in the abuse at Abu Ghraib prison.

CONCLUSION

The geographic and causal dimensions collide in the “policy migration” account. In September of 2004, the Senate Armed Services Committee did not speak publicly of any consequential incident of abuse other than the photographed incidents at Abu Ghraib prison. As noted in the previous chapter, the “widespread abuse” that occurred around Abu Ghraib prison was politically non-problematic and, when described, took the form of rough statistics. At Guantánamo Bay, the facility for which the migrating policies were designed, only non-systematic and “minor” instances of abuse were publicly recognized. It was at Abu Ghraib prison, then, and only there, that Department of Defense policies—Rumsfeld’s authorization of pain-inducing interrogation practices—and Office of Legal Counsel opinions bore any relation to abuse. Abu Ghraib was an anomaly and local conditions, including the confusion caused by policy, local leadership breakdowns, and the pathology of a few soldiers, accounted for the abuse there.

This situation would begin to change in December of 2004, when, over the course of the month, letters and emails from FBI agents who had been posted at Guantánamo

were leaked and publicly released. These materials documented abuse at Guantánamo that an FBI agent described, in one email, as torture; they also documented that FBI agents had been told to “stand down,” rather than involve themselves in the interrogations at Guantánamo. One account was particularly troubling. An FBI agent had witnessed

On a couple of occasions, [...] a detainee chained hand and foot in a fetal position to the floor, with no chair, food or water. Most times they had urinated or defecated on themselves and had been left there for 18 24 hours or more.

and

On another occasion, the A/C had been turned off, making the temperature in the unventilated room probably well over 100 degrees. The detainee was almost unconscious on the floor, with a pile of hair next to him. He had apparently been literally pulling his own hair out throughout the night. (Lewis and Johnston 2004)

Soon after, another official investigation would be launched, the so-called *Schmidt-Furlow Report*. On June 12, 2005, about a month before the Senate Armed Services Committee would invite Generals Schmidt and Furlow to testify about their investigation, *Time* published an article based on an unpublished interrogation log of Detainee 0-63, Mohammed al-Qahtani. The article recounted how, at Guantánamo, al-Qahtani was strip-searched and “briefly” made to “stand nude”; how he was told “to bark like a dog and growl at pictures of interrogations”; how Army interrogators hanged “pictures of scantily clad women around his neck”; and how “a female interrogator so annoy[ed] al-Qahtani that he [told] his captors he [wanted] to commit suicide” (Zagorin and Duffy 2005). During the Senate Armed Services’ hearing, which is the focus of the next chapter, Senator Reed scrutinized the abuses documented by the two Generals and observed, “That sounds remarkably similar to what occurred at Abu Ghraib, people being

led around in chains, people being forced to wear lingerie. Perhaps a coincidence, perhaps not” (U.S. Congress 2005b:117).

The isolated incident was becoming emblematic.

5. Guantánamo: From “Honor Bound” to a Global Stain

In 2004, the Senate Armed Services Committee held seven public hearings and at least two classified ones to receive testimony about abuse at Abu Ghraib prison in Iraq and elsewhere in the wars in Afghanistan and Iraq. Over these seven hearings, a core group of Republican Senators (Cornyn, Chambliss, Graham, Inhofe, and Roberts), Democrat Bill Nelson, and several military witnesses (Generals Smith, Alexander, and Miller) lavishly praised General Geoffrey Miller’s work at the U.S.’s detention facilities at Guantánamo Bay, Cuba. This praise typically took a specific form: It credited General Miller with having “straightened out” (Senator Roberts) or “cleaned up” (Senator Bill Nelson) practices at Guantánamo. What, specifically, Miller improved at Guantánamo remained relatively vague. As Senator Saxby Chambliss put it,

I was worried about what might happen down there [at Guantánamo] with respect to those detainees. I had the privilege to observe several different interrogations. I think I was there the day that General Miller first arrived, as a matter of fact. I observed random interrogations down there. General Miller did correct a problem that existed. There were charges of abuse that were much slighter than these charges of abuse [at Abu Ghraib prison], and General Miller dealt with those swiftly and directly. (U.S. Congress 2005a:64)

This praise of Miller rebounded onto Guantánamo. Having been “cleaned up” by the General, detention and interrogation practices at Guantánamo were political non-issues. If Tier 1 at the hard site at Abu Ghraib prison was an “*Animal House*,” as James Schlesinger described it on September 9, 2004, the soldiers at Guantánamo were “Honor Bound to Defend Freedom,” a phrase Miller institutionalized at the facility. Importantly, this portrayal of Guantánamo was empirically credible, if not indisputable, grounded, as

it was, on the politically recognized fact that no major incidents of abuse had been publicly documented by official sources.

The value of the portrayal, however, exceeded its empirical credibility. The portrayal helped military officials, official investigators, and Senate Republicans erect a thick symbolic wall between Guantánamo and Abu Ghraib prison. As a “cleaned up” prison where only minor abuses occurred, Guantánamo provided compelling evidence of two things. First, the absence of abuse at Guantánamo bolstered the claim that the gratuitous abuses at Abu Ghraib prison were isolated incidents, unrepresentative of American practices. Second, this portrayal of Guantánamo made it difficult to sustain an explanation of the events at Abu Ghraib that linked the pain-inducing interrogation techniques designed for Guantánamo to the events at the Abu Ghraib.

This characterization of Guantánamo may strike the reader as peculiar, if not unfamiliar. That the prison harms America’s global image, particularly in “the Muslim world,” is a truism (and perhaps cliché) of coverage of the facility (see, for instance, Cebdriwucz 2008; Savage 2010; Sweig 2009). Political consensus about the wisdom of the policies and practices at Guantánamo, as well as about the continued use of detention facilities there, does not yet exist. However, many American political elites, Republicans and Democrats alike, now publicly recognize Guantánamo to be a toxic symbol of American human rights violations. Most notably, during the 2008 American presidential campaign, both Senators Barack Obama and John McCain argued that the detention facility at Guantánamo Bay should be closed (Finn 2008; McCain 2008). As President, Obama took immediate action toward realizing this goal, signing an executive order that

would close the detention facilities at Guantánamo “no later than 1 year from the date of this order” (Barack Obama 2009a). As of writing, the detention facilities at Guantánamo remain in operation; meanwhile, the symbolic harm of the prison idles:

In any case, one senior official said, even if the administration concludes that it will never close the prison, it cannot acknowledge that because it would revive Guantánamo as America’s image in the Muslim world. “Guantánamo is a negative symbol, but it is much diminished because we are seen as trying to close it,” the official said. “Closing Guantánamo is good, but fighting to close Guantánamo is O.K. Admitting you failed would be the worst.” (Savage 2010)

This chapter takes this transition as its puzzle. How did Guantánamo become a mark on the collective visage of the U.S.? Why did this transition in political discourse occur? I argue that developments in public textual discourse radically altered the reality of detainee “abuse” at the prison. Specifically, the public release of Federal Bureau of Investigation (FBI) emails and a military interrogation log secured, much as the Abu Ghraib photographs had before them, a local reality of abuse at Guantánamo that was difficult to fit to the interpretive contours of legitimate state violence. I begin this chapter, however, by providing background into the U.S.’s presence at Guantánamo Bay and its use, during the Bush administration, as a detention facility.

BACKGROUND

The U.S.’s presence at Guantánamo Bay dates to 1903, when, following the Spanish-American War, the U.S. leased 45 square miles of land and water at the bay for use as a coaling station (U.S. Navy 2010). A 1934 treaty reaffirmed the lease and provided that the lease would continue perpetually, “So long as the United States of America shall not abandon the said naval station of Guantánamo or the two Governments shall not agree to

a modification of its present limits” (United States and Cuba 1934). Today, the naval base at Guantánamo is the only American naval base located “in a country with which the U.S. does not maintain diplomatic relations” (U.S. Navy n.d.).

The first mainstream media references to Guantánamo in the context of the war on terror came on October 2, 2001 in *The Guardian* and *The Washington Times*. The references foreshadowed the complicated legacy of the facility and the U.S.’s war in Afghanistan. In *The Guardian*, George Monbiot argued against a military response to terrorism and for a diplomatic and humanitarian one. He cited the U.S.’s experience in Cuba as evidence of how *not* to confront a political enemy: “There are many in Washington who privately acknowledge that Fidel Castro’s tenure has been sustained by US hostilities and embargos. Had the US withdrawn its forces from Guantánamo Bay, opened its markets and invested in Cuba, it would have achieved with generosity what it has never achieved with antagonism” (Monbiot 2001). In *The Washington Times*, Bruce Fein celebrated the fact that “nation-building is off the table in President George W. Bush’s anti-terrorism war against the Taliban.” Fein advocated “creating a United States antiterrorism defense base [in Afghanistan] like our Guantánamo naval base in Cuba” (Fein 2001).

Hints of the Bush administration’s decision to create a detention facility at Guantánamo came on November 25, 2001, when *The New York Times* reported that “Pentagon officials designing military tribunals for suspected terrorists are considering the possibility of swift, secretive trials on ships at sea or on United States installations, like the naval base in Guantánamo Bay, Cuba” (Purdy 2001). A month later, during a

December 27, 2001 press briefing, Secretary of Defense Donald Rumsfeld, detailed the Defense Departments plans to build a detention facility at Guantánamo (CNN.com 2001). On January 6, 2002, American soldiers began arriving at Guantánamo to build maximum-security detention facilities there (Seelye 2002). On January 11, 2002, the U.S. military transported the first detainees, twenty in total, from Afghanistan to Guantánamo.

The conditions of detainment at Guantánamo immediately raised concerns amongst human rights organizations. The International Committee of the Red Cross (ICRC) publicly stated that it regarded the twenty detainees transported to Guantánamo as prisoners of war, protected by the Geneva Conventions, rather than, as the Bush administration characterized the detainees, “unlawful combatants” (BBC News 2002). The ICRC and Amnesty International (AI) both expressed concern about the U.S.’s handling of the detainees. Specifically, the ICRC characterized the U.S.’s decision to shave the beards of the detainees as a possible violation of the detainees’ human dignity. The day before the U.S. military transported the first detainees to Guantánamo, AI released a press release drawing attention to reports that the U.S. planned on drugging, hooding, and shackling the detainees during the flight from Afghanistan to Guantánamo; AI also criticized the U.S. for its plans to hold detainees in “6x8 feet chain-link ‘cages’ at least partially open to the elements” (Amnesty International 2002a). All of these practices, according to Amnesty, fell below or violated international human rights standards.

The criticisms, however, barely registered in Congress. In late-January, 2002, a group of twenty members of Congress visited Guantánamo. Several members of the

group downplayed the significance of human rights reports about abuses at the prison and described the trip as motivated by a concern over interrogation and intelligence, rather than the conditions of detainees' detention (Borger 2002). Republican Representative Bob Stump, who participated in the visit and was, at the time, Chair of the House Armed Services Committee, referred to the criticisms of Guantánamo as “anti-American” (Borger 2002). Republican Ileana Ros-Lehtina described such criticism as ironic, given the concern that human rights organizations were showing for “these assassins, these terrorists, these sworn enemies of America and the principles of freedom and democracy when right outside the barbed-wire fence from Gitmo, 11 [million] Cubans are literally ready and willing to die to get to the freedom of our shores” (Borger 2002). Senator Bill Nelson, a Democrat from Florida and a member of Senate Armed Services Committee, was more generous than his Republican colleagues; however, he, too, downplayed human rights concerns about American practices at Guantánamo, as well as the need for congressional attention to the matter.

[T]he question of humane treatment is certainly a legitimate question, but I can't imagine, although I will see for myself tomorrow, that the United States is not giving anything but humane treatment. That is the character, that is the nature of our people. And certainly with as much attention on Guantánamo, it is certainly going to be the case of humane treatment. What I want to find out is, are we getting information? We are in a war against terrorists. (Nelson 2002)

In fact, in 2002, there is only one critique of Guantánamo in the Congressional record, and it is an ambiguous one. On March 20, 2002, Democrat House member Dennis Kucinich offered a “prayer for America.” In it, he observed that the American people, through their elected representatives, had not authorized “permanent detainees in Guantánamo Bay” (Kucinich 2002). Similarly, in 2003, there are, again, few critical

references to Guantánamo in the congressional record and, those that do appear, are generally ambiguous or refer not to the treatment of detainees at the prison, but the legal processes by which the executive branch determined the category to which a detainee belongs (and, thus, establishes what legal protections a detainee receives).⁴²

THE REALITY OF ABUSE AT GUANTÁNAMO

In 2004, the release of photographs from Abu Ghraib drew public and political attention to the treatment of detainees in U.S. custody. Public and political scrutiny of Guantánamo increased, too.⁴³ However, as I noted above, these critiques of Guantánamo did not register amongst members of the Senate Armed Services Committee during their 2004 hearings on detention operations. When the Committee's hearings ended in September, 2004, Guantánamo had effectively been excluded from the Committee's narrative of detainee abuse. However, in the months following the completion of these hearings—and in the months following the 2004 American Presidential election—revelations about detention practices at Guantánamo proliferated. What emerged was a disturbing vantage onto the local reality of Guantánamo—the practices employed at the detention facility. That official sources—FBI and military interrogators—had produced this vantage, that

⁴² On July 16, 2003, Senator Jeff Bingaman argued for an amendment that he added to the 2004 Department of Defense Appropriations Act. Of the amendment, Bingaman said, "There is nothing in my amendment that questions the treatment of these individuals. Others have questioned the treatment of these individuals. I have not questioned the treatment of these individuals in Guantánamo. There is nothing in the amendment that questions the treatment of these individuals" (Bingaman 2003). In November, Senator Dick Durbin introduced a speech by a law professor at the University of Chicago; the speech included some critical, but relatively non-specific remarks about Guantánamo. Later that month, Bingaman reintroduced his legislation, which had failed as an amendment, requiring the Department of Defense to produce a report on detainees at Guantánamo. This bill was referred to the Senate Armed Services Committee and was never brought to a vote.

⁴³ A search of the Congressional Record, returned 83 hits for the term "Guantánamo" in 2001–2003. In 2004, there are 102 hits.

these sources had directly observed detention and interrogation operations, and that these sources recorded these operations with high-fidelity made these representations particularly problematic for those who would portray Guantánamo as a model prison.

In an October 17, 2004 article in the *New York Times*, Neil A. Lewis (2004a), citing interviews with unnamed sources (“military guards, military intelligence agents, and others”), alleged that detainees at Guantánamo were regularly subjected to “harsh and coercive treatment.” The article alleged that one “regular procedure” for use on “uncooperative prisoners” involved

making uncooperative prisoners strip to their underwear, having them sit in a chair while shackled hand and foot to a bolt in the floor, and forcing them to endure strobe lights and screamingly loud rock and rap music played through two close loudspeakers, while the air-conditioning was turned up to maximum levels.

Lewis’ article juxtaposed these allegations with the military’s and the Schlesinger panel’s claims that harsh interrogation techniques approved by Secretary Rumsfeld were “used only on two occasions” and that there “were about eight abuses” at Guantánamo. Less than two months later, Lewis (2004b) reported on a classified ICRC report, based on a June 2004 visit to Guantánamo, that forwarded similar allegations. Specifically, the report found “that the American military has intentionally used psychological and sometimes physical coercion ‘tantamount to torture.’”

On December 17, 2004, Dana Priest and Scott Higham of the *Washington Post* reported on the existence of a CIA detention facility at Guantánamo for “valuable al Qaeda captives that has never been mentioned in public” (Priest and Higham 2004). Later that month, the ACLU acquired “heavily redacted emails and memorandums” documenting FBI agents’ experiences at Guantánamo as part of a Freedom of

Information Suit. The materials were consistent with Lewis' October report and the ICRC report. They also provided a first-hand vantage on American detention and interrogation practices.

“On a couple of occasions, I entered interview rooms to find a detainee chained hand and foot in a fetal position to the floor, with no chair, food or water,” the FBI agent wrote on Aug. 2, 2004. “Most times they had urinated or defecated on themselves, and had been left there for 18 to 24 hours or more.” In one case, the agent continued, “the detainee was almost unconscious on the floor, with a pile of hair next to him. He had apparently been literally pulling his own hair out throughout the night.” (Eggen and Smith 2004)

The documents also included allegations that military dogs had been using during interrogations at Guantánamo. This revelation conflicted with General Geoffrey Miller's account of practices at Guantánamo and his recommendations at Abu Ghraib prison.

The issue is particularly pertinent to statements by Maj. Gen. Geoffrey D. Miller, who commanded the Guantánamo Bay prison from October 2002 to March 2004. Miller has acknowledged urging in September 2003 that military dogs be sent to Iraq to help deter prison violence, but he told a team of Defense Department investigators in June—and many reporters—that “we never used the dogs for interrogations while I was in command” of Guantánamo Bay. (Eggen and Smith 2004)

The allegations documented in the FBI emails and memorandums led General Bantz J. Craddock, Commander of the United States Southern Command, to order an investigation into the behavior of military and Department of Defense interrogators at Guantánamo. Craddock named Brigadier General John T. Furlow the investigating officer. In February, 2005, Craddock appointed Lieutenant General Randall M. Schmidt the senior investigating officer of the investigation. This development permitted the investigation to pursue interviews with officers out-ranking General Furlow.

In March, 2005, while Generals Furlow and Schmidt's investigation was ongoing, the Department of Defense released the executive summary of the Church Report. The report, led by Vice-Admiral Albert T. Church III, was the Department of Defense's final major review of American detention practices spurred by the revelations from Abu Ghraib. On March 10, 2005, Vice-Admiral Church appeared before the Senate Armed Services Committee to give testimony on the findings of his investigation. This hearing provides evidence that the image of Guantánamo that dominated the Committee's 2004 hearings had begun to erode. Importantly, neither Vice-Admiral Church, nor his investigation, were the cause of this erosion. Indeed, when asked by Chairman Warner to speak of abuses that his investigation documented that had not been revealed in the Abu Ghraib photographs, Vice-Admiral Church described abuses in the "low end" (slapping) and the "high end" (sexual assaults). In a statement consistent with General Geoffrey Miller's May 19, 2004 testimony to the Committee, Vice-Admiral Church characterized abuse at Guantánamo as on being on "the low end"; there were, Church continued, "incidents of slapping or what we call minor abuse cases" (U.S. Congress 2005b:9). In his opening statement, Senator Levin cited revelations from the FBI's emails and offered a very different narrative of detention practices at Guantánamo.

Just in the past few months, we have learned of FBI agents' strong objections to aggressive and coercive interrogation techniques at Gitmo, which FBI agents in one e-mail labeled "torture" and in a number of e-mails deemed so disturbing that agents had guidance to "step out of the picture" when the military were carrying out interrogations. The Gitmo commanders defended these methods by saying that the DOD has their "marching orders" from the SECDEF. (U.S. Congress 2005b:6)

As I noted in Chapter 3, the official investigations of abuse in Iraq largely suppressed the “distinctive local historical character” (Smith 1990a:154) of violence done against detainees in U.S. custody. While the reports acknowledged incidents of violence, such as those at the point of capture, they obscured the nature of those events and, thus, facilitated official denial of them. In his testimony, Church provided a similarly obscured view on acknowledged abuse at Guantánamo. The FBI’s emails, however, provided an official vantage on distinctive, local events at Guantánamo; significantly, the events portrayed in these texts were difficult to fit to the interpretive contours of legitimate state violence—callously, instrumentally organized cruelty. For instance, the lengthy quote, reproduced above, represents the vulnerabilities and leakiness of the suffering human body. Here are detainees in the fetal position; here is urination, defecation...in one case, a detainee, nearly unconscious, lying amidst his own hair.

This quality of the emails made them potent materials for critics of the Bush administration’s detention program. For instance, I document, in the next chapter, the use of the FBI emails to interpretively “fill in” the gap in political discourse surrounding CIA interrogation. Lacking first hand accounts of the CIA’s use of “enhanced interrogation,” critics of the administration typified the program by reference to the FBI’s accounts. For the purposes of this chapter, however, it is of note that the FBI emails provided an alternative vantage on Guantánamo than did the executive’s investigations. As such, they provided grounds for Democrats, such as Levin, to problematize the facility at Guantánamo.

The Interrogation of Mohammed al-Qahtani

The public textual discourse surrounding Guantánamo further developed when, on June 12, 2005, *Time* magazine published an article based on the military's interrogation log of Detainee 0-63, Mohammed al-Qahtani, the suspected "20th hijacker" who was meant to participate in the September 11 terrorist attacks. (*Time* released extracts of the log with the article; they would release the full log in March, 2006.) The article and the publicly available extracts revealed that al-Qahtani's interrogation involved sleep deprivation, sensory bombardment (noise), isolation, forced nudity, a military dog and prolonged interrogations (which lasted up to 12 hours). Female interrogators and "pictures of scantily clad women" were also systematically used during al-Qahtani's interrogations (Zagorin and Duffy 2005).

Like the FBI's emails before it, al-Qahtani's interrogation log (selectively and partially) portrays the local reality of U.S. detention and interrogation practices. This vantage is evocatively described by the authors of the *Time* report:

The log reads like a night watchman's diary. It is a sometimes shocking and often mundane hour-by-hour, even minute-by-minute account of a campaign to extract information. The log records every time al-Qahtani eats, sleeps, exercises or goes to the bathroom and every time he complies with or refuses his interrogators' requests. (Zagorin and Duffy 2005)

The *Time* report does not challenge the propriety of al-Qahtani's interrogation, nor their justification. Al-Qahtani's status as the "so-called 20th hijacker" frames the article, his possession of vital information about al Qaeda is frequently cited, and the report closes with the authors' laconic admission that "in the war on terrorism, the personal dignity of a fanatic trained for mass murder may be an inevitable casualty" (Zagorin and Duffy 2005). Still, the report, drawing on al-Qahtani's interrogation log,

documents the descent of al-Qahtani's interrogation into the absurd; indeed, al-Qahtani's interrogation, as described by *Time*, is a peculiar tincture of cruelty and silliness.

Frustrated by al-Qahtani's apparent capacity to resist interrogation and emboldened by Secretary of Defense Donald Rumsfeld's December, 2002 authorization of "stronger coercive methods," military interrogators begin to innovate. They prevent al-Qahtani from sleeping during lengthy interrogations by "dripping water on his head or playing Christina Aguilera music" (Zagorin and Duffy 2005).

According to the log, his handlers at one point perform a puppet show "satirizing the detainee's involvement with al-Qaeda." He is taken to a new interrogation booth, which is decorated with pictures of 9/11 victims, American flags and red lights. He has to stand for the playing of the U.S. national anthem. His head and beard are shaved. He is returned to his original interrogation booth. A picture of a 9/11 victim is taped to his trousers. Al-Qahtani repeats that he will "not talk until he is interrogated the proper way." Over the next few days, al-Qahtani is subjected to a drill known as Invasion of Space by a Female, and he becomes especially agitated by the close physical presence of a woman. (Zagorin and Duffy 2005)

Like detainees at Abu Ghraib, al-Qahtani is interrogated in the presence of a military dog and stripped and forced to stand nude. He is told "bark like a dog and growl at pictures of terrorists" (Zagorin and Duffy 2005). Interrogators "hang pictures of scantily clad women around his neck" (Zagorin and Duffy 2005). These, apparently, are some of the "minor abuses" to which Church, in his earlier testimony to the Senate Armed Services Committee, referred. This, apparently, is the reality underlying Guantánamo's slogan of "Honor Bound."

Time's report also documents the consequences of these practices, particularly sleep deprivation and stress, on al-Qahtani, who was, intermittently during his interrogations, refusing food and drink. On December 7, 2002, al-Qahtani's interrogation

cease for 24-hours—although he is still denied sleep—after the detainee becomes “seriously dehydrated” (Zagorin and Duffy 2005). A doctor monitors Al-Qahtani’s condition and, later on the 7th, al-Qahtani’s pulse slows.

An electrocardiogram is administered by a doctor, and after al-Qahtani is transferred to a hospital, a CT scan is performed. A second doctor is consulted. Al-Qahtani's heartbeat is regular but slow: 35 beats a minute. He is placed in isolation and hooked up to a heart monitor. The next day, a radiologist is flown in from Roosevelt Roads Naval Air Station in Puerto Rico, 600 miles away, to read the CT scan. The log reports, “No anomalies were found.” Nonetheless, al-Qahtani is given an ultrasound for blood clots. For the first time since the log began, al-Qahtani is given an entire day to sleep. The next evening, the log reports that his medical “checks are all good.” Al-Qahtani is “hooded, shackled and restrained in a litter” and transported back to Camp X-Ray in an ambulance. (Zagorin and Duffy 2005)

The description of al-Qahtani’s condition is notable for a number of reasons. On one hand, it provides evidence that medical professionals at Guantánamo were complicit in al-Qahtani’s mistreatment (Miles 2007). On the other, *Time*’s initial report downplays the physical consequences of al-Qahtani’s treatment, including al-Qahtani’s sustained pulmonary problems while in detention. Indeed, the report seems to suggest, as proponents of “enhanced interrogation” often do (see Chapter 6), that such practices have no lasting, physical consequences. Moreover, both the report and log further bolster the prevailing image of U.S interrogation as well regulated by documenting the frequency with which military doctors evaluate al-Qahtani as fit to undergo interrogation. And yet, the report, like the log, permits a reading against its grain. Against the image of a well-regulated interrogation, one finds interrogators experimenting with practices that appear far from professional or scientific—the puppet show, the images of “scantly clad women,” and the use of women to “agitate” al-Qahtani. Against the image of precise,

surgical practices, one finds al-Qahtani's suffering—his heart rate slows; he suffers from chest pain, kidney pain, and head pain;⁴⁴ he develops a boil on his legs; he is constantly exercised to prevent swelling in his feet from prolonged standing.⁴⁵

The revelations about al-Qahtani's treatment appear to have been particularly influential. In the days that followed, Vice President Cheney and Secretary of Defense Rumsfeld spoke publicly about the prison. Although both men defended the U.S.'s use of it, Cheney offered that the President was actively reviewing Guantánamo "on a continuous basis" (Kaufman 2005; The Guardian 2005; Associated Press 2005b). In a series of statements made in mid-June, members of the President's party, however, indicated that they were split on the continuing use of the prison. Senator Bill Frist, the Republican Senate Majority Leader, acknowledged the political peril of Guantánamo, but argued against closing it: "To cut and run because of image problems [...] is the wrong, wrong thing to do" (Frist in Associated Press 2005). Senator John McCain, meanwhile, implied that the status quo at Guantánamo was unsustainable.

[T]he key to this is to move the judicial process forward so that these individuals will be brought to trial for any crime that they are accused of rather than residing in the Guantánamo facility in perpetuity." (McCain in Associated Press 2005)

Senator Chuck Hagel of Nebraska cited Guantánamo as a reason that America is "losing the image war around the world" and argued that closing the facilities there would improve the U.S.'s global standing (Hagel in Kaufman 2005). Senator Mel Martinez, a

⁴⁴ The complete interrogation log attributes al Qahtani's kidney pain to his refusal of water (Trotter 2010).

⁴⁵ This is a relatively common practice. Greek torturers, for instance, forced detainees to run to decrease the swelling and numbness in the feet associated with *falaka* (Rejali 2007:343).

Florida Republican, similarly described Guantánamo as “an icon for bad stories” (Martinez in Kaufman 2005).

Three days after *Time*’s report, the Senate Judiciary Committee held a hearing, entitled “Detainees.” The Chairman of the Committee, then-Republican Arlen Specter, narrowly defined the Committee’s agenda, “The focus of today’s hearing is going to be on the procedures used with detainees. We do not have within the scope of this hearing the issues of torture or mistreatment” (U.S. Congress 2005d:1). Committee Democrats, however, aggressively criticized the on-going use of Guantánamo. Patrick Leahy referred to the facility as “an international embarrassment” that “undermined our [global] leadership and damaged our credibility. It has drained the world’s good will for America at alarming rates” (U.S. Congress 2005d:3–4). Joseph Biden and Russ Feingold echoed Levin’s critique; both noted that the facility had harmed the U.S.’s reputation in the “Muslim world.” Edward Kennedy was both more oratorical and precise, naming the abuses at Guantánamo as torture:

[I]n many parts of the world, we are no longer viewed as the Nation of Jefferson, Hamilton, and Madison. Instead, we are seen as a country that imprisons people without trial and degrades and tortures them. Our moral authority went into a free fall. The FBI has reported the use of torture as an interrogation tool at Guantánamo and complained to the Justice Department and the Defense Department about its use. [...] Top officials in the administration have endorsed and defended interrogation that we have condemned in other countries, including forcing prisoners into painful stress positions for hours, threatening them with dogs, depriving them of sleep, using so-called water-boarding to simulate drowning. We have degraded and exploited our own female military personnel by encouraging them to use sexually degrading methods of interrogation. [...] There is no question that Guantánamo has undermined our efforts in the war on terrorism. It has stained our reputation on human rights. It has inflamed the

Muslim world, and it became a powerful recruiting tool for terrorists. (U.S. Congress 2005d:23)

During the hearing, Kennedy and Feingold also called for the closure of the facility.

The summer of 2005 was, then, a critical moment in the political contest over Guantánamo. In 2004, the prison's positive and credible image (at least amongst U.S. Senators) had served Republican Senators, military officials, and investigators well. Now, however, Guantánamo required accounting. The Senate Armed Services Committee's July 13 hearing on the Schmidt-Furlow Report provided a stage for that accounting.

SUSTAINING "HONOR BOUND"

In his opening testimony to the Committee, General Schmidt testified that the military's investigation had documented a number of incidents of abuse, some of which corresponded to FBI allegations. Specifically, the investigation documented, as FBI agents had, that

- Detainees had been "short shackled" to the floor of the interrogation room;
- An interrogator had ordered that a detainee's mouth be duct taped to quiet the detainee;
- Interrogators subjected detainees to noise—yelling and loud music—during interrogations;
- Interrogators manipulated "air conditions to make rooms uncomfortable";
- Interrogators ordered that detainees be moved "from cell to cell to disrupt sleep patterns";

- A female interrogator “approached a detainee from behind, rubbed against his back, whispered in his ear, & ran fingers through his hair”;
- A female interrogator “put perfume on a detainee’s arm”;
- A female interrogator “told a detainee that a red marking on her hand was menstrual blood and then whipped her hand on the detainee.” (U.S. Congress 2005b:89)

The documented practices used on Detainee 0-63, Mohammed al-Qahtani, took up three slides that the investigators presented to the Committee and included fourteen items. These ranged from forms of “gender coercion” similar to those listed above: “Twice, MPs held down [al-Qahtani] while a female interrogator straddled the detainee without placing weight on the detainee”; once, a female interrogator “massaged the back and neck of [al-Qahtani] over this closing”; and, “on numerous occasions,” female interrogators “invaded the personal space of [al-Qahtani] to disrupt his concentration” (U.S. Congress 2005b:90). Other “interrogation methods” similarly played on issues of gender and sexuality: Al-Qahtani’s mother and sister were called whores; he had a “woman’s bra and thong placed on his head”; and interrogators “twice...told him he was a homosexual or had homosexual tendencies and that other detainees knew.” Al-Qahtani was also forced “to dance with a male interrogator” and subjected “to several strip searches as a control measure”; on one occasion, an interrogator tied a leash to al-Qahtani’s hand chains and “led him around the room through a series of dog tricks” (p. 90–1).

Other practices used during al-Qahtani's interrogation resemble forms of torture that Rejali labels "sweating." Such practices, such as sleep deprivation, prolonged interrogations, the use of cold or heat, and solitary confinement, have a well-documented history in democracies and, in particular the United States; indeed, these practices constitute the "third degree" of police interrogation and were endemic in the early-20th century (Rejali 2007). The military's investigators found that al-Qahtani was subjected to noise, kept in an air condition room that was manipulated to make it "uncomfortable," exposed to a military dog that was directed to "growl, bark, and show teeth," isolation for 160 days, and 18 to 20-hour interrogations for 48 out of 54 days (U.S. Congress 2005b:91).

Schmidt and Furlow reached a number of important conclusions about the treatment of detainees at Guantánamo. They found that no torture occurred; however, the "cumulative effect" of al-Qahtani's treatment had an "abusive and degrading impact on the detainee" (p. 93). They also evaluated allegations made by 26 FBI agents in an email survey conducted by the FBI Inspection Division. Schmidt and Furlow categorized these 26 allegations into 9 types. Their investigation found that two of these allegations—that military personnel interfered with FBI interrogators and that military interrogators denied detainees food and water—were unsubstantiated. Two of the nine allegations were substantiated and unauthorized; this included short shackling and the use of duct tape to quiet a detainee. Five of the allegations were substantiated and authorized; this, which I will discuss in more detail in the conclusion of this chapter, included the use of yelling and loud music, the impersonation of FBI and Department of State agents, the use of air

conditioners, the disruption of sleep patterns, and forms of “gender coercion,” such as a female interrogator touching and massaging a detainee or, in another case, applying perfume to a detainee.

During the Committee’s March, 2005 hearing with Vice-Admiral Church, divergent claims about the sort of abuse that occurred at Guantánamo existed side-by-side. This trend persisted into July. Despite the findings of the Schmidt-Furlow Report, General Craddock, the highest ranking military witness to appear before the Committee, and Republican Senators Roberts and Chambliss all offered lengthy statements of praise for Guantánamo. Roberts made a particularly impassioned and lengthy monologue on the prison that took him, as he put it, “way over my time, but I really do not give a damn” (p. 128).

Roberts’ statement includes several of the major forms of denial employed by Craddock and Republicans during the Committee’s hearing. Roberts, for instance, downplayed the substantiated instances of abuse—three (the treatment of Al-Qahtani, the use of short shackling, and the use of duct tape)—by contextualizing them within the total number of interrogations at Guantánamo.

24,000 total interrogations that have been conducted at Gitmo. So out of 24,000 interrogations, 3 total incidents. My math, that makes for an incident rate of .000125. What field manual could be written to prevent incidents or an incident rate or a mistake in regards to 24,000 interrogations that resulted in an incident rate of .000125? Is this what this has come down to, 3 misdemeanors out of 24,000 interrogations, 3 misdemeanors that occurred 2 or 3 years ago, not today, not to practices that are being conducted today under your command and under the commander down there? (p. 126)

Indeed, the Schmidt-Furlow investigation concluded that three unauthorized acts, which were characterized as “misdemeanors,” had occurred at Abu Ghraib prison. Republican Senators Warner, Inhofe, Roberts, and Chambliss all cited this figure in statements during the hearing and frequently contrasted it with a second, the number of interrogations at Guantánamo (24,000). A third figure emerged in Senator Roberts statement: .000125, or the rate of incidents at Guantánamo. These Senators used these figures to support a knot of claims that downplayed the significance of and the need for political and military responses to Guantánamo.

Roberts also employed several other, familiar forms of denial. He described the detainees as “terrorists [who] are very bad people.” He observed that American detention practices were, by historical standards (that he did not articulate), highly impressive: “Never before in history has any country faced with a barbaric terrorism implemented a policy of terrorist detention so unique, so unprecedented, and so humane, in my personal view.” (p. 126). (Senator Inhofe made a similar statement.) Roberts also employed the claim of necessity, arguing that the information that the U.S. gathered at Guantánamo “is current and can save lives, more especially in events like Casablanca and Madrid and, yes, London, and yes, plots against the United States” (p. 127). Roberts further positioned himself as a privileged spokes-person for Guantánamo, having visited it and having not “not see any perfume, I did not see any straddling. I did not see any sleep deprivation, because that does not work” (p. 127). Roberts also cited Miller’s slogan for Guantánamo:

Their motto on the back of their cover says “Honor Bound.” When you went through that facility, everybody saluted you and said “Honor Bound,” and you said “Honor Bound” back to them. (p. 126)

General Craddock, General Furlow, and Senator Chambliss made similar statements about his visit to Guantánamo and Senator Sessions expressed his excitement to visit the facility.

Finally, Roberts referred to a range of privileges that he claimed detainees at Guantánamo enjoy, ranging from choices of “113 Muslim dishes” that out-do the choice of food given American soldiers, “better health care and better facilities than many of my rural small communities [in Kansas]”, “ice cream on Sunday,” soccer, volley ball, and ping pong facilities, and the freedom to pray (p. 127).

Reconciling “Honor Bound” with the FBI’s Guantánamo

In Roberts’ portrayal of Guantánamo, the abuse of detainees is a statistical anomaly; the detainees imprisoned there are barbaric terrorists; and the U.S.’s treatment of those barbaric terrorists is, by historic and commonsensical standards, impressive and humane. This Guantánamo stands as an alternative to the nightmarish one described in FBI memoranda and by critics who fixated on the interrogation log of a single detainee. The portrayal also begs a question: Why had Federal Bureau of Investigation agents posted at Guantánamo taken drastic steps—writing emails to superiors describing how American soldiers abused, if not tortured, detainees? Why, furthermore, would FBI agents receive guidance to “step out of the picture” if Guantánamo looked as how Roberts described it?

Chairman Warner raised this issue to the hearing’s witnesses and an explanation quickly emerged: FBI agents perceive reality, particularly the reality of detention and

interrogation operations, through a qualitatively different interpretive lens than does the military (cf. Pollner 1987):

Warner: The findings by and large, with the several exceptions that you have pointed out, indicate that the interrogating procedures were conducted in accordance with directives from the SECDEF, even though from time to time they were changed. Now, the Bureau people were looking at this same set of facts coming from these detainees and the procedures from the perspective of future criminal operations in the United States; am I correct on that?

Furlow: Mr. Chairman, that is correct. The FBI agent went down there with the idea of conducting a prosecutable case in a court of law.

Warner: The standards by which they collect evidence for prosecutions, presumably for Federal courts as opposed to State, were quite different than the standards promulgated by the SECDEF; am I correct in that observation?

Furlow: Yes, sir, that is correct. (U.S. Congress 2005b:106)

This resolution of the “reality disjuncture” (Pollner 1987) that existed between the FBI’s and military’s divergent accounts of Guantánamo rested on the presumption that the FBI’s standards for evaluating the appropriateness of interrogations does not apply to military interrogations. The FBI’s standards are, in other words, too legalistic; the aim of an FBI interrogation is to produce evidence that can be used in a federal trial. While neither Warner nor Furlow articulated the Department of Defense’s standards for interrogation, both men would understand that the aim of a military interrogation is to produce “actionable intelligence” that could be used for national security purposes.⁴⁶

⁴⁶ Senator Kennedy raised this issue in his questions for the record. Generals Schmidt and Furlow explicitly articulated this view, responding that the different perspectives that the FBI and military had of interrogations “highlights the difference between the law enforcement mission of criminal prosecution and the need for actionable intelligence in the war on terror” (U.S. Congress 2005b:155)

There are three things of note about this explanation of the divergent accounts that FBI agents and military investigators offered of U.S. practices in Guantánamo. First, the attribution of different perspectives on an underlying reality to those making divergent accounts of events is a common form of “mundane reasoning” that people typically use to resolve “reality disjunctures” (Pollner 1987). Indeed, as I documented in the previous chapter, General Abizaid used a similar tactic in May of 2004 to resolve the divergent accounts of American detention practices in Iraq that the ICRC and military officials offered. Second, the argument assumes a legal dichotomy between criminal investigations and military intelligence that would dissolve, in rather dramatic fashion, in 2006 when, in *Hamdan v. Rumsfeld*, the Supreme Court rejected the Bush administration’s paradigm for trying terrorists. I deal with this development in greater detail below; for the sake of this discussion, however, it is important that the Court’s decision complicated the distinction between law enforcement and military interrogations. Specifically, the Courts’ decisions required that U.S. military commissions have standards of evidence comparable to those used in military and civilian courts. This requirement forced Congress, who was charged with crafting legislation establishing the commissions, to confront the problem of evidence gathered through coercion or torture.

Finally, and for the purposes of this chapter most importantly, the argument that the FBI and the U.S. military have qualitatively different standards of interrogation—and that the practices used at Guantánamo were largely consistent with military standards—required interpretive work to *render* the documented violence consistent with American

military standards. This work involved comparisons of specific practices at Guantánamo to categories, inscribed in texts, of authorized practices. For some substantiated incidents, this was relatively straightforward. As the Schlesinger and Church reports had earlier documented, Secretary of Defense Donald Rumsfeld had permitted various detention and interrogation practices for use at Guantánamo. For instance, General Schmidt observed that the “impersonation of FBI and Department of State agents was authorized under the Secretary of Defense action memo in December 2002 under category 1, deception” (U.S. Congress 2005b:99). The use of air conditioners, similarly, “was authorized under the SECDEF 16 April 2003 memo. Environmental manipulation was approved as an appropriate and humane interrogation technique” (p. 99).

The work of normalizing interrogation practices at Guantánamo became more elaborate when the subject was the various forms of “gender coercion” American interrogators employed on al-Qahtani. This normalization involved the introduction and description of a general type of interrogation “approach” from the military’s standards for interrogation—which, at the time, were listed in *Field Manual 34-52 Intelligence Interrogation*—and a rich description for why a specific, documented behavior at Guantánamo was consistent with that category. This work also involved the construction of a form of “textual agency” (Brummans 2007; Cooren 2004)—the capacity of a text to influence the actions of people—that emphasized the variations or mutations of meanings of a text as people, in various social settings, interpret it.

In General Schmidt’s rendering, “gender coercion” is the outcome of the translation of a “high-order, fairly benign looking technique” into “an application [...]

that got very specific” (U.S. Congress 2005b:97). Specifically, Schmidt referred to the translation of “high-order” techniques enumerated in the military’s *Field Manual* into practice at Guantánamo. One relevant, high-order technique that the military’s field manual on human intelligence permits is called futility. Schmidt defined the intent of the technique as “to convince the source that resistance to questioning is futile” (p. 97). Schmidt enumerated a number of possible ways that this technique might, hypothetically, be applied at Guantánamo: “Tell the detainee about how al Qaeda is falling apart, talk about how everyone has been killed or captured, and tell him what we know about him so that he feels that he has already been exploited at some point and it is futile to withhold information” (p. 97).

Schmidt’s hypothetical interrogation is relatively consistent with how the military’s *Field Manual* portrays the practice. The *Field Manual* notes, for instance, that “the futility approach is effective when the interrogator can play on doubts that already exist in the source’s mind” (U.S. Department of Army 1992:3–18); it further suggests the following hypothetical applications of “futility.”

If the source’s unit had run out of supplies (ammunition, food, or fuel), it would be somewhat easy to convince him all of his forces are having the same logistical problems. A soldier who has been ambushed may have doubts as to how he was attacked so suddenly. The interrogator should be able to talk him into believing that the interrogator’s forces knew of the EPW’s [Enemy Prisoner of War’s] unit location, as well as many more units. (U.S. Department of Army 1992:3–18)

And, yet, “as it gets down to the interrogation room” (U.S. Congress 2005b:97) futility may take a very different form. As Schmidt put it,

it may involve gender coercion via some form of domination. The detainee does not want to hear this and he does not want to hear it from a woman. You will see

that being straddled, not touched, massaged, or possibly mild non-injurious touching, such as putting perfume on the arm and that sort of thing, invades a detainees [sic] personal space. This is part of how they make the futility element work, with this more aggressive technique. (p. 97)

Similarly, Schmidt cited the interrogation approach of “ego down,” an approach listed in the *Field Manual* that permits the interrogator to attack “the source’s sense of personal worth” (p. 98). The *Field Manual* describes the objective of the interrogator employing to approach as,

To pounce on the source’s sense of pride by attacking his loyalty, intelligence, abilities, leadership qualities, slovenly appearance, or any other perceived weakness. This will usually goad the source into becoming defensive, and he will try to convince the interrogator he is wrong. In his attempt to redeem his pride, the source will usually involuntarily provide pertinent information in attempting to vindicate himself. (U.S. Department of Army 1992:3–18)

Again, Schmidt argued, ego down must be translated into a specific application. In this case, its application involved interrogators making statements to al-Qahtani that his mother and sister were whores and that he was a homosexual; the use of unnecessary strip searches on al-Qahtani; forcing al-Qahtani to wear women’s clothing; forcing al-Qahtani to dance with a male interrogator; and putting al-Qahtani on a leashing and forcing him to act like a dog.

Schmidt’s method of accounting for “gender coercion” is significant for several reasons. First, it set the stage for a contentious debate about accountability for al-Qahtani’s treatment. Schmidt and Furlow recommended that General Geoffrey Miller be held accountable and admonished for failing to supervise the interrogation of al-Qahtani. This recommendation rested on the argument that while no specific technique violated

U.S. military standards of interrogation, the cumulative effects were degrading and abusive (Schmidt and Furlow 2005:20). Craddock, however, decided against taking action on Schmidt and Furlow's recommendation and argued to the Committee that, because each individual interrogation practice was legitimate, he did not believe that any wrong-doing occurred. As he told the Committee,

General Miller did supervise the interrogation in that he was aware of the most serious aspects of ISN-0-63's interrogation: the length of interrogation sessions, the number of days over which it was conducted, and the length of segregation from other detainees. The evidence does show that General Miller was not aware of certain other aspects of that interrogation. However, since there was no finding that U.S. law or policy was violated, there is nothing for which to hold him accountable concerning the interrogation of ISN-0-63. Therefore, under the circumstances, I do not believe that those aspects of which he was not aware warrant disciplinary action. (U.S. Congress 2005b:105)

From a human rights perspective, this account is significant in so far as it suggests that the military's *Field Manual* for human intelligence permits—or may effectively be presented as permitting to deflect calls for accountability—a range of interrogation practices that violate international standards for the humane treatment of detainees. This, however, is not the prevailing view of the military's *Field Manual*, particularly amongst American politicians. Indeed, during the SASC's hearing on Guantánamo, Senator McCain insinuated that the military's *Field Manual* provides a workable standard for American interrogations and Secretary Rumsfeld's decision to approve beyond the *Field Manual* contributed to the abuse documented at Guantánamo (p. 116). In December of 2005, Congress passed the Detainee Treatment Act, which included the "McCain Amendment" that constrained military interrogators to the *Field Manual*. In 2006, the

military revised and published a new version of the field manual; the new version explicitly prohibits a number of practices employed during the war on terror including forced nudity, forcing detainees to perform or pose in sexual ways, hooding, using duct tapes on detainees, beating detainees, “waterboarding” detainees, subjecting detainees to military dogs, exposing detainees to extreme temperatures, “conducting mock executions,” and depriving detainees of necessities, such as “food, water, or medical care” (U.S. Department of Army 2006:5–21). While legislative efforts to constrain all American intelligence agencies to the *Field Manual* failed in 2008, President Barack Obama signed an executive order establishing the military’s field manual as the standard for all U.S. interrogations.

These developments represent a positive step toward standardizing U.S. interrogation practices and limiting American interrogators to practices designed to be consistent with U.S. international obligations, particularly the Geneva Conventions. At the same time, the revised *Field Manual* permits the isolation of detainees and forms of sensory deprivation and sleep deprivations; these practices are enumerated in “Appendix M” of the manual. It is also of note that the various interrogation approaches that Army investigators cited in their testimony to the Senate Armed Services Committee—ego-down and futility—remain part of the military’s approved method of interrogation. It is unclear whether the explicit prohibition on practices such as forced nudity and forcing detainees to perform or pose in sexual ways would, now, interfere with official efforts to justify many of the practices used on al-Qahtani. It is not clear, in other words, whether the interpretive flexibility that military officials seized during the SASC’s hearing to

align various forms of “gender coercion” with the military’s approved interrogation practices has been relinquished.

Finally, this account begs a question. During the Senate Armed Services Committee’s hearings on Abu Ghraib, the committee’s witnesses consistently testified that no military or Department of Defense policy permitted any of the photographed behavior. The witnesses also deconstructed the links between a “slide” listing various interrogation practices, such as sleep adjustments, sensory deprivation, and “presence of Mil[itary] Working Dogs,” and the photographed violence. This deconstruction rested on the grounds that the slide (1) included important “safeguards” that prohibited the photographed behavior and (2) listed techniques that had specific and narrow meanings and, thus, could only be applied in comparably specific and narrow ways. In the terms I introduced earlier, this account attempted to diminish the agency of the interrogation slide; hearing participants downplayed its capacity to move American soldiers toward abusive practices. This form of textual agency diametrically opposes the form of agency constructed around the *Field Manual* during the Committee’s hearing on Guantánamo. We see the shift, I believe, because (1) the photographed violence at Abu Ghraib provoked a profound political crisis and the disavowal of it, rather than the accommodation of it, was necessary to ameliorate that crisis and (2) the slide of interrogation techniques was the key, if not the only, “link” between the violence at Abu Ghraib prison, high-ranking military officials, and Department of Defense policies of interrogation.

The violence at Guantánamo occurred in the Bush administration’s pet prison; it

also occurred against a high-value detainee, al-Qahtani, whose interrogation was publicly and durably linked to General Miller and Secretary of Defense Donald Rumsfeld. What was at stake, then, in the military's and the Senate Armed Services Committee's evaluation of al-Qahtani's treatment was not *whether* high-ranking military and Bush administration officials were responsible for the use of particular detention and interrogation practices, but *what sort* of practices these men were responsible for permitting. Rendering the practices consistent with military standards was an attempt to drain the treatment of al-Qahtani of its illegality and undercut demands for accountability.

ANOTHER GUANTÁNAMO

Participants in both the Senate Armed Service Committee's March, 2005 and July, 2005 hearings justified Rumsfeld's decision to permit additional interrogation practices on the grounds that interrogators at Guantánamo had found available techniques inadequate. During the July 13, 2005 hearing, this argument took a more specific form. Generals Craddock and Schmidt noted that it was Mohammed al-Qahtani's capacity to resist standard interrogation practices and the urgency of gaining intelligence from the suspected "20th hijacker" that were the "genesis for the request [...] for more techniques that might be able to get past his resistance training" (U.S. Congress 2005b:99–100). Craddock also noted that al-Qahtani had provided important intelligence on Al Qaeda and "future plans" (p. 99).⁴⁷

At the same time, these findings, coupled with the FBI's allegations of "torture"

⁴⁷ Senator Cornyn amplified these facts in an exchange with General Craddock.

and Schmidt and Furlow's finding that the cumulative effect of al-Qahtani's treatment was "abusive and degrading," permitted the construction of critical claims. In his opening statement to the hearing, Senator Levin contrasted the causes of abuse at Guantánamo with the Department of Defense's favored explanation of Abu Ghraib, "It is clear from the report that detainee mistreatment was not simply the product of a few rogue military police on a night shift. Rather, this mistreatment arose from the use of aggressive interrogation techniques" (p. 77). Similarly, Jack Reed compared al-Qahtani's treatment at Guantánamo to what the photographs at Abu Ghraib showed: "mother and sister were whores, dancing with male interrogators, homosexuality allegations, et cetera [...] That sounds remarkably similar to what occurred at Abu Ghraib, people being led around in chains, people being forced to wear lingerie. Perhaps a coincidence, perhaps not" (p. 117). The following day, when the Committee's Subcommittee on the Personnel held an additional hearing on Guantánamo, Senator Kennedy echoed Levin and Reed, comparing the treatment of detainees at Guantánamo with the violence at Abu Ghraib.

Last year, the Federal Bureau of Investigation (FBI) raised serious concerns. [...] The FBI repeatedly raised the concern that these techniques were not effective at producing reliable intelligence, and these "torture techniques," as they called them, would become an issue if military commissions were used. In the case of the twentieth hijacker, the FBI noted that he had been subjected to intense isolation for 3 months and then military working dogs were used to threaten him. They said he showed signs of extreme psychological trauma: talking to nonexistent people, reporting hearing voices, crouching in the corner of the cell covered with a sheet for hours on end. The interrogation techniques that were described by the FBI and again yesterday in graphic detail to this committee, were eerily reminiscent of the abhorrent practices that took place at Abu Ghraib: forcing a detainee to wear women's underwear on his head, leashing the detainee like a dog and forcing him to do dog tricks, intimidating detainees with military dogs, and stripping detainees. (p. 187)

In Chapter 3, I suggested that Senator Levin and other Democrats failed to sustain an account of Abu Ghraib that linked the violence there to official policies because, in part, there were no significant cases of (politically recognized) abuse in the places where those policies originated. We see, however, in the statements by Levin, Reed, and Kennedy how revelations about abuse at Guantánamo—incribed in official documents that provided local vantages on the facility—permitted the sort of critiques that members of the Senate Armed Services Committee were unable to make in 2004.

CONCLUSION

Between 2004 and 2006, the prevailing image of the U.S.’s detention facility at Guantánamo changed dramatically in American political discourse. The facility—”cleaned up” in 2004, “Honor Bound” in early-2005—had become for many, by the latter half of 2005 a toxic symbol of American cruelty, a stain on the U.S.’s reputation. This change resulted, in part, from the alteration of the “reality” of the prison. The FBI’s emails and Mohammed al-Qahtani’s interrogation log provided a vantage on a nightmarish prison that did not appear as it had when its commander, Geoffrey Miller, testified to Congress about it, when the executive’s official investigators spoke of it, or when members of Congress visited it.

As with the political debate surrounding Abu Ghraib, the debate concerning Guantánamo is largely a result of the public release of official documents that provide vantages on the “distinctive local historical character” (Smith 1990a:154) of detainee abuse and torture. The photographs taken at Abu Ghraib, the FBI’s emails, and al-

Qahtani's interrogation share this quality; these documents, made by Americans while serving in U.S. detention facilities, permit their viewers or readers to peer behind the walls of those facility. What these documents reveal are the excesses of interpersonal violence, its non-instrumental qualities, the improvisations of those who employ it, and the vulnerabilities of those who suffer it.

6. Waterboarding and the Liberal Ideology of Torture

The previous chapter documents the early stages in the emergence of a discourse of acknowledgment. Specifically, I documented the fragmentation of the cultural image of the U.S.'s detention center at Guantánamo Bay and the association of Guantánamo with Abu Ghraib. This chapter continues to trace the emergence, albeit precarious and contested, of a discourse of acknowledgment. I pay particular attention to political debate about the Central Intelligence Agency's (CIA) "enhanced interrogation" program. I focus on the political debate surrounding waterboarding. Of the CIA's "enhanced interrogation" practices, waterboarding was the most notorious. And, though waterboarding appears to have been used on only three detainees in U.S. custody, the practice, in congressional discourse, often stands in for the broader set of "enhanced interrogations" practices that the CIA employed. Specifically, this chapter tracks the definitional contests to characterize the actual practice—the local reality—to which the word "waterboarding" refers. I demonstrate that these contests occurred within a political and organizational context that denied Congress textual realities of the practice for use, as interpretive resources, on its public stage. Proponents and critics of the practice, then, turned to their own, preferred accounts of waterboarding to fill this representational lacuna.

I show, further, that the competing portrayals of waterboarding were not merely arguments about what waterboarding was like—whether it did or did not cause sufficient pain to be labeled torture or whether it did or did not produce good intelligence. Rather, these portrayals culturally coded waterboarding, and "enhanced interrogation" practices

more generally. Members of Congress attempted to build, or deconstruct, associations between American interrogation practices and the historical use of torture by other states, particularly the non-democratic regimes that constitute the modern memory of torture (Rejali 2007). Critics of the practices mobilized well-known background representations from the modern memory of torture to embed American interrogation practices—and, implicitly, those who authorized them—in a counter-democratic discourse (Alexander and Smith 1993). Proponents, conversely, attempted to undermine these associations by portraying American interrogation practices as professionally and instrumentally used. Proponents' depiction of waterboarding, then, attempted to sustain a dichotomy between illiberal cruelty and American “enhanced” interrogations (Athey 2007; Hooks and Mosher 2005; Luban 2007).

I begin by reviewing the introduction, in 2004, of waterboarding into American public discourse. I then present the early, political encounters with the practice in 2005 and 2006, before turning to political debate about the practice after the 2006 mid-term elections. The elections, I argue, altered the political environment in which Congress considered waterboarding. Democrats, by their control of congressional committees, altered the discursive boundaries of political debate about torture, detainee abuse, and interrogation policy. After discussing this change, I review developments in the public textual discourse (Smith 1990a) of waterboarding. I highlight the impact of the CIA's admission that the Agency destroyed videotapes of interrogations. I then show that, lacking the videotapes or any other direct observational account of the practice, proponents and critics competed to produce their own portrayals of waterboarding. I

closely analyze these portrayals, demonstrating that each orients to a cultural binary between the legitimate use of force and illiberal cruelty.

THE INTRODUCTION OF WATERBOARDING INTO AMERICAN PUBLIC DISCOURSE

Waterboarding entered the American lexicon on May 13, 2004, amidst the scandal of Abu Ghraib, when *The New York Times* (Risen, Johnston, and Lewis 2004) published an article on CIA interrogations of high-value detainees. The article was not the first to document the CIA's use of controversial, pain-inducing practices in their interrogations. Two years earlier, Dana Priest and Barton Gellman (2002), writing in the *Washington Post*, documented that CIA interrogators used "stress and duress" practices, stress positions and sleep deprivation. But the *Times*' article was the first to describe American waterboarding—"a prisoner is strapped down, forcibly pushed under water and made to believe he might drown"—and its authorization by the Department of Justice.

Even as the Abu Ghraib scandal raged, and despite the notoriety that would eventually attach itself to waterboarding, the practice did not resister with members of Congress in 2004. There are only two references to the practice in the congressional record that year.⁴⁸ While congressional attention to waterboarding increased after 2004, it did so unevenly. Table 1 documents congressional attention to waterboarding between 2004 and 2008.

⁴⁸ Democrat Senator Patrick Leahy referred to waterboarding twice in July, 2004 (U.S. Congress. Senate 2004; Leahy 2004); Leahy cited a *USA Today* article (Loey and Diamond 2004) that described the practice and referred to the Department of Justice's refusal to release a memoranda in which the practice was discussed.

Table 1. References to waterboarding in Congressional Record and Hearings.⁴⁹

Year	Number of Days containing a reference to waterboarding in the <i>Congressional Record</i>	Congressional hearings containing a reference to waterboarding
2004	2	0
2005	15	6
2006	12	7
2007	31	13
2008	37	31 ⁵⁰

The second column indicates the number of days, annually between 2004–2008, in which a reference to waterboarding appears in the *Congressional Record*. The third column indicates the number of congressional hearings containing a reference to waterboarding. While these figures do not indicate the total number of references to waterboarding each year or the number of Representatives and Senators who referenced the practice, they provide a window onto congressional concern for the practice. And, as Table 1 suggests, congressional attention to waterboarding increased fitfully; we observe a fairly dramatic increase in attention between 2004 and 2005 and, again, between 2006 and 2007.

In 2005 and 2006, congressional debate about waterboarding oriented toward the prevailing political projects facing Congress. Following President Bush’s re-election in 2004 and the resignation of several of Bush’s top Cabinet members, Congress considered,

⁴⁹ Results are from a search of “waterboard,” “waterboarding,” “water boarding,” “waterboarded,” and “water boarded” through gpo.gov’s search engine on June 29, 2011. I excluded the phrase “water board,” as it returns a considerable number of irrelevant references to the water boards of various American cities and states. These figures are provided as rough indicators of congressional interest in waterboarding. On a single day, there may be several references to waterboarding; these figures also include instances in which a Representative or Senator introduced a document, such as a newspaper article, into the congressional record or a hearing that referred to waterboarding.

⁵⁰ This total includes two hearings on food regulations in which “waterboarding” was used to describe efforts to raise “downers”—cattle that cannot stand— by forcing water into the throats and noses of cattle.

in early 2005, several high-profile nominees. The President nominated Alberto Gonzales to replace John Ashcroft as Attorney General; Gonzales had previously served in the administration as White House Legal Counsel. Condoleezza Rice received Bush's nomination to replace Colin Powell as Secretary of State; Rice had served, during Bush's first term, as National Security Advisor. In February, 2005, Bush nominated Michael Chertoff to replace Tom Ridge as Secretary of Homeland Security. The nomination was Bush's second to replace Ridge; his initial nominee, Bernard Kerik, withdrew his nomination due to revelations that he had employed, and not paid taxes on, an illegal immigrant (James 2009). During each nominee's confirmation hearing, Senate Democrats raised waterboarding, asking Gonzales, Rice, and Chertoff to provide an opinion on its use.

In 2006, debates about waterboarding primarily oriented to Congress's effort, following the Supreme Court's decision in *Hamden v. Rumsfeld*, to craft legislation establishing military commissions. As noted in the previous chapter, the practice, and other aggressive interrogation techniques, figured in debates about standards of evidence of military commissions; members of Congress and their witnesses discussed whether evidence collected by interrogation practices, such as waterboarding, would be allowed in international tribunals and whether such evidence should be allowed in U.S. military commissions.

POLITICAL POWER AND A DISCURSIVE CONTEXT OF ACKNOWLEDGMENT

It was not until 2007, following the Democrat's victory in the 2006 mid-term election, that waterboarding became a significant political issue, subject to sustained debate about its legality, effectiveness, and consequences for the nation. Indeed, as Table 1 suggests, the mid-term election dramatically altered political discourse about waterboarding. Political control of congressional committees permitted House and Senate Democrats to arrange broad, reflective hearings—with titles such as, “Torture and the Cruel, Inhuman and Degrading Treatment of Detainees: The Effectiveness and Consequences of ‘Enhanced’ Interrogation”—that differed, in important ways, from hearings held under the previous, Republican Congress. Between 2003-2006, congressional hearings on detainee abuse, torture, and interrogation policy were fairly reactive and narrow; they followed the public release of significant documents, such as the Abu Ghraib photographs, were called to receive testimony on an investigation originating in the executive branch, or were responsive to Supreme Court rulings on issues related to detainees. The Republican Congress, in other words, largely deferred to the agendas set by the executive and judicial branch in their public reviews of the treatment of detainees.

Moreover, under Republican rule, a narrow, official discourse of detainee abuse and interrogation policy dominated Committee hearings. This is no more apparent than in the 2004 Senate Armed Services Committee hearings on Abu Ghraib, during which the only outside experts who gave testimony on the issues before the Committee were James Schlesinger and Harold Brown. Both, however, appeared before the Senate Armed Services Committee in their capacity as independent investigators, chartered by Secretary of Defense Donald Rumsfeld. Both Schlesinger and Brown, moreover, are no strangers to

the Department of Defense's official discourse. Indeed, each served as Secretary of Defense in the 1970s. After serving for six months as the CIA's director, Schlesinger served for Presidents Nixon and Ford; Rumsfeld succeeded Schlesinger in 1975 as Ford's Secretary of Defense. Brown succeeded Rumsfeld following Jimmy Carter's defeat of Ford in the 1976 American Presidential Election. It was not until July, 2006 that the Senate Armed Services Committee would receive testimony from witnesses not currently associated with the U.S. Armed Forces or Department of Defense more generally on issues related to detainees.⁵¹ Even then, the witnesses were retired Navy and Army lawyers—Thomas J. Romig, a former-Judge Advocate General of the Army, and John D. Hutson, a former-Judge Advocate General of the Navy—and were called to give testimony on military commissions, an issue often treated as distinct from detention and interrogation.⁵² Indeed, during the hearing in which both Romig and Hutson gave testimony, issues of detainee abuse were not raised.

Policy makers, Nancy Naples (1997) writes, “are situated in a position of power to control whose voices will be represented in the legislative hearings. The organization of congressional hearings establishes spaces for certain actors to perform on the discursive stage, inhibits others from participating, and renders silent” others (p. 913). As Naples (1997) further points out, “policymakers are not free to choose the discursive frames” (p. 913) through which to debate public issues. Indeed, committee chairs may be compelled

⁵¹ On November 18, 2003, the Senate Judiciary Committee held a hearing on civil liberties after September 11, 2001 in which several legal scholars appeared. Issues related to detention were raised during this hearing; however, the primary focus of the hearing was not on detention or interrogation policy.

⁵² Both Romig and Hutson have figured prominently in public debates about interrogation policy and detainee abuse. Hutson appeared before Congress on a number of occasions to give testimony on these issues and appears in Alex Gibney's documentary *Taxi to the Dark Side*. Romig appears in the documentary *Torturing Democracy*.

to include witnesses with diverse positions on an issue. Minority members may request that a Committee invite a particular witness to give testimony; committee chairs may also wish to appear bi-partisan by including diverse positions on an issue. Still, in 2007 and 2008, the Democrats' committee chairs profoundly influenced political discourse of torture by calling broad, reflective hearings on interrogation policies, by setting agendas that assumed such techniques had harmed U.S. interests, and by including witnesses who did not share the executive's or military's positions on the practice.

Two Committees—the House Subcommittee on the Constitution, Civil Rights, and Civil Liberties and the Senate Armed Services Committee—opened series of hearings to review the authorization of harsh interrogation practices. The House Subcommittee on the Constitution focused on the Department of Justice's role in the authorization of the practices and, over the course of their five hearings, received testimony from several former and current members of the Bush administration. The Senate Armed Services Committee focused on the Department of Defense's role in authorization of Survival, Evasion, Resistance and Escape (SERE) techniques for use by military interrogators. The “resistance” component of SERE training attempts to inoculate members of the U.S. Armed Forces to the interrogation practices and torture techniques historically used by the country's enemies. During the war on terror, the U.S.'s detention and interrogation policies, particularly those of the CIA, derived from the “reverse engineering”—employing the “defensive” training as “offensive” interrogation practices—of SERE techniques (Mayer 2005).

Both Committees received testimony from the Bush administration's legal and policy architects of interrogation. John Yoo, David Addington, and Douglas Feith appeared as witnesses during the Subcommittee on the Constitution's hearings. Yoo, in his capacity as Deputy Assistant Attorney General in the Office of Legal Counsel, drafted several memoranda on the application of domestic and international laws against torture in the war on terror. Addington served as Vice President Dick Cheney's Chief of Staff; in that capacity, Addington appears to have provided much of the internal impetus for the use of harsh interrogation practices. Feith served in the Department of Defense as Undersecretary of Policy; Feith organized the Pentagon's public case for the war in Iraq. The Subcommittee compelled both Addington and Feith to appear before them by subpoena. The Senate Armed Services Committee received testimony from William "Jim" Haynes. Haynes served as General Counsel of the Department of Defense until February, 2008. In that capacity, he advised Secretary of Defense Donald Rumsfeld on the legality of employing SERE training techniques for military interrogations. The Committee's investigation also revealed that, under Haynes, the Department of Defense's Office of the General Counsel was one of the informational hubs for interrogation policy; the office initiated a number of conversations with the Joint Personnel Recovery Agency (JPRA), the Department of Defense agency responsible for SERE training. The Committee's hearings also involved several former-members of JPRA who had communicated with the Department of Defense and who coordinated with trainings for military and intelligence agency interrogators.

The House Subcommittee on the Constitution and the Senate Armed Services Committee also received testimony from former members of the Bush administration and retired military officials who had, during their tenure, worked against the use of enhanced interrogation. Lawrence Wilkerson, the Chief of Staff to former-Secretary of State Colin Powell, appeared before the House Subcommittee on June 18, 2008. In the months after the September 11 terrorist attacks, the administration debated, internally, the application of the Geneva Conventions in the war on terror. Under Powell, the Department of State advocated, in vain, for the application of the Geneva Conventions to detainees in U.S. custody (Greenberg and Dratel 2005). Wilkerson would, following the 2004 elections and Powell's resignation, speak publicly and critically about the Bush administration's—and, in particular, Vice President Cheney's—role in the authorization of abusive interrogation practices (Quinn 2005). Steven Kleinman, a former-interrogator and Director of Intelligence at JPRA's Personnel Recovery Academy, gave testimony to the Senate Armed Services Committee on September 25, 2008. Kleinman had earlier appeared with another former-JPRA instructor, Malcolm Nance, before the House Subcommittee on the Constitution's November 8, 2007 hearing on the "effectiveness and consequences" of "enhanced interrogation." Kleinman had served on a team sent to Iraq to train interrogators in SERE techniques. During the 2008 hearing, he testified that he witnessed, and reported, interrogations during that visit that he believed violated the Geneva Conventions. The Senate Armed Services Committee also received testimony from Alberto Mora, the former General Counsel of the Navy. In late-2002 and early-2003, Mora raised concerns with Haynes about the interrogation tactics authorized by Secretary

of Defense Donald Rumsfeld. On January 15, 2003, Mora drafted, delivered, and threatened to sign a memo expressing his concerns that Department of Defense interrogation practices “were violative of domestic and international legal norms, and that they constituted, at a minimum, cruel and unusual treatment, and, at worst, torture” (U.S. Congress 2009d:8). Haynes, in response, promised Mora that Rumsfeld would rescind his authorization for the use of harsh interrogation practices, which the Secretary did that day.

Finally, the Committees cracked open the official discourse that had dominated congressional reviews of detention and interrogation policies under Republicans. Representatives of the American Civil Liberties Union, Human Rights First, and Human Rights Watch offered testimony to congressional committees on several occasions. So, too, did legal scholars, including two—Philippe Sands and David Luban—who have published extensively on U.S. policies of detention and interrogation. Sands, a Professor of Law at University College London, is the author of *Torture Team: Rumsfeld’s Memo and the Betrayal of American Values*. The book draws on Sands’ interviews with administration officials and military lawyers to trace the origin of Rumsfeld’s December, 2002 authorization of the use of torture at Guantánamo. Luban, a Professor of Law at Georgetown University, published extensively on legal issues related to the war on terror. Most notably, Luban’s 2005 article “Liberalism, Torture, and the Ticking Bomb,” challenges the dominant justification for torture—that it is ethically and legally appropriate for use in the so-called “ticking time bomb scenario”—by drawing attention to the logical and practical shortcomings of the scenario. Specifically, Luban argues that

the scenario assumes the state will have near-perfect knowledge of an impending terrorist attack, a condition not likely met in real life. It also decontextualizes torture as a practice that requires an institutional and cultural foundation:

Who will teach torture techniques now? Should universities create an undergraduate course in torture? Or should the subject be offered only in police and military academies? Do we want federal grants for research to devise new and better techniques? Patents issued on high-tech torture devices? Companies competing to manufacture them? Trade conventions in Las Vegas? Should there be a medical sub-specialty of torture doctors, who ensure that captives do not die before they talk? The questions amount to this: Do we really want to create a torture culture and the kind of people who inhabit it? (p. 1445–6)

That this use of political power was largely unilateral—that the broad, critically hearings on “enhanced interrogations” was not a bipartisan project—is made clear in three brief sentences that appear in a *Washington Post* article, from December, 2006, on the Democrats mid-term victory and the influence of their Committee Staff Directors. Of the Senate Armed Services Committee’s new staff director, Richard D. DeBobes, the *Post* (Kamen et al. 2006) wrote,

The committee is known for its bipartisanship and, DeBobes said, “there’s no reason for that not to continue.” Still, that atmosphere may become strained. DeBobes, 68, is putting together a new three-person investigative team to challenge the administration on detainee treatment.

Republicans, for their part, levied criticisms of the Committees’ agendas.

Representative Trent Franks, the ranking Republican on the House Subcommittee on the Constitution, addressed the Subcommittee’s chair during the first of the Subcommittee’s five hearings on the Department of Justice:

Mr. Chairman, the subject of detainee treatment was the subject of over 60 hearings, markups and briefings during the last Congress in the House Armed Services Committee alone, of which I am a Member. (U.S. Congress 2008a:2)

Similarly, in the Senate Armed Services Committee's first of four hearings on SERE and Department of Defense interrogation policy, Senator Lindsay Graham, a moderate Republican and a military lawyer, addressed Carl Levin, the Committee's chair. Even as Graham recognized the wrongdoing of Bush administration officials, he located them in a political past that required little further investigation.

So, respectfully, Mr. Chairman, we're not breaking new ground here. The abuses, the inconsistencies, the pattern of poor judgment in these matters are well-documented. The fact is that we have come a long way in the past 5 years. Secretary Rumsfeld is gone. Wolfowitz, Cambone, and Feith are all gone. John Yoo and Jim Haynes are gone. (U.S. Congress 2009d:16)

THE IRREALITY OF WATERBOARDING

The 2006 mid-term election changed the political environment in which members of Congress considered waterboarding. There were, however, other developments that influenced political discourse of the practice. Specifically, over the course of the final two years of the Bush administration, accounts of the "local reality" underlying "waterboarding"—the actual events to which the word referred—emerged. These accounts sought to fill a representational lacuna brought to the fore by the revelation that the CIA had destroyed videotapes documenting its interrogations of high-value detainees, including two whom the Agency waterboarded.

On December 6, 2007, CIA Director Michael Hayden disclosed that the CIA had destroyed videotapes documenting the CIA's interrogations of Abu Zubaydah, an alleged associate of Osama Bin Laden, and another high-value member of al-Qaeda. Initial reports noted that Abu Zubaydah had been one of the detainees on whom the CIA used

waterboarding (Mazzetti 2007; Eggen and Warrick 2007). Within days, the House and Senate Intelligence Committee, as well as the Department of Justice and the CIA's inspector general, announced investigations into the destruction of the taped interrogations (Mazzetti and Johnston 2007; Lichtblau 2007). On December 20, 2007, the House Judiciary Committee held the first public hearing on the CIA's destruction of the videotaped interrogations. The political controversy surrounding the tapes concerned a number of issues, including the possibility that the destruction of them constituted an obstruction of justice and the fact that the CIA withheld the tapes from the 9/11 Commission. For the purposes of this study, what was significant about the destruction of the tapes is that it brought to the foreground, and also rendered permanent, a representational lacuna in the textual reality of American interrogation practices.

As earlier chapters documented, representations of reality produced by digital cameras and video recorders operate, within political discourse, as indexes of the local reality of detainee abuse and torture. They are treated, in other words, as windows onto an underlying reality. The destruction of the videotapes, then, had implications for public debates about the nature of CIA practices and their legal status. This was apparent in the House Judiciary Committee's hearing on enhanced interrogations. In his opening statement to the House Judiciary Committee's hearing, Representative Robert Scott, a Democrat from Virginia, referenced both the political controversy about the definition of torture and the destroyed tapes. In so doing, he implied the significance of visual representations of reality.

We have heard we can't tell whether or not a particular technique is torture until we have some more specifics. If we had it on tape, people could look at the tape

and ascertain whether or not that was torture, but the tape, the evidence has been destroyed. (U.S. Congress 2009a:6)

Two of the Committee's witnesses made similar arguments. Stephen A. Saltzburg, Professor of Law at the George Washington University Law School, suggested that public understandings of waterboarding may not correspond to the reality of the practice and he referred to the videotapes as "indisputable evidence" that might show "that the actual implementation of waterboarding was quite a bit different than people assumed it would be" (U.S. Congress 2009a:9). Elisa Massimino, the Washington Director of Human Rights First, went further, deducing from the destruction of the tapes "that at least some in the Administration understood what we know: that the acts depicted on those tapes were unlawful and would shock the conscience of any decent American who saw them" (U.S. Congress 2009a:21).

I do not share Saltzburg's or Massimino's confidence that the CIA videotapes, had they been viewed by the American populace, would have forced consensus on the nature of CIA interrogation generally and waterboarding specifically. The videotapes, like the Abu Ghraib photographs before them, would have been a matter of political concern. The "actual implantation" of waterboarding that the videotapes showed would have required interpretation and narration; American politicians, no doubt, would have competed to assign meaning to what the tapes showed. More generally, no representation of social reality is pure, completely detached from the subjective position of its maker. All representations, moreover, are partial; they depict some aspects of the primary experience of social reality, and exclude others (Law 2004; Pfohl 2008; Riessman 1993).

Still, the political and cultural response to the release of the Abu Ghraib photographs suggests that the video recordings *would* have made a difference in public understandings of waterboarding. Part of the Abu Ghraib photograph's affective power is their portrayal of American violence that appears ritualized, socially organized, and symbolically meaningful. Americans transformed the body of the enemy into the body of Christ; or the body of the Arab male into a heterosexist image of homosexuality. The photographed violence, moreover, was collectively organized; it involved groups of Americans, who, it appeared, shared in the frenzy of violence. The photographs, in other words, did not fit—or, rather, could not easily be made to fit—into the interpretive contours of the prevailing archetype (Athey 2007) or liberal ideology (Luban 2007) of the torturer as a professional who encounters his subject in a one-on-one setting, who inflicts pain in a controlled and clinical manner (Rejali 1994), and who views the suffering of his subject instrumentally, merely as a means to an end, a vehicle for production of information. The liberal ideology of torture construes the practice as “callous,” the form of violence endemic to modern, mass society and, in particular, democracies (Collins 1974; Hooks and Mosher 2005); in so doing, it cures torture of its toxicity, the cultural association of torture with illiberal, counter-democratic cruelty. The photographs taken at Abu Ghraib, on the other hand, suggested that the “actual implementation” of “stress positions” or “forced nudity” appeared far less callous than the labels or the torture archetype suggested.

The CIA's destruction of the videotapes of their interrogations brought to the fore the gap between language and reality. While I am hesitant to assign meaning to these

absent representational forms, I would suggest that the destruction of the videotapes mattered in two ways. First, and most simply, the destruction of the videotapes permitted the CIA and proponents of enhanced interrogation to fill the representational lacuna with their own, preferred accounts. As I show below, the CIA and proponents of enhanced interrogations did just this, constructing narratives of waterboarding that fitted it to the liberal ideology of torture. This meant, of course, that critics of the practice also sought to fill the representational lacuna with their own, preferred accounts; they challenged the narratives of waterboarding's proponents, drew on the accounts of those who had undergone the practice as part of Navy training, and associated the practice with illiberal regimes that had used water torture. The destruction of the videotapes did not silence debate about the recent past, nor did it "turn the past into a non-event" (Payne 2008:194). Indeed, the destruction of the tapes brought further scrutiny to waterboarding, as the American polity wanted "to see the 'nothing' that is so obviously present" behind the absent videos (Payne 2008:194). Moreover, the destruction of the videotapes did not prevent critics from portraying the "actual implementation" of waterboarding negatively. Rather, it provided sufficient negative space for proponents and critics to both construct credible images of the practice. It denied, however, American politicians with a representation of reality that, given the evidentiary value of visual recordings, would likely have become the primary representation of reality, against which all interpretations of the practice could be checked (Smith 1990a).

Second, and more speculatively, it is possible that the CIA's videotaped interrogations would have, like the Abu Ghraib photographs, shown cruelty that appeared

ferocious—that is non-instrumental, passionate, sadistic, ritualized—rather than callous. It is possible, in other words, that the videotapes would have revealed waterboarding to be a form of violence inconsistent with contemporary, democratic constructions of cruelty.

In the conclusion of this chapter, I consider these two observations further. First, however, I trace the interpretive contours of proponents' and critics' portrayals of waterboarding and SERE techniques, which served as the source of the CIA's "enhanced interrogation" program more generally. In so doing, I draw attention the interpretive resources on which participants in House and Senate hearings in 2007 and 2008 drew to produce their portrayals of waterboarding. I also show that these competing portrayals map over the cultural grid described above. Proponents of waterboarding attempted to portray the practice as clinical, instrumental, modern; critics endeavored to portray waterboarding as a non-democratic (Alexander and Smith 1993), if not atavistic.

WATERBOARDING AS A MANDATED COURSE OF ACTION

In public debates about the CIA's enhanced interrogation program, much has been made about its effectiveness. This issue, indeed, is central to public debate about torture, since "Apologists often assume that torture works, and all that is left is the moral justification. If torture does not work, then their apology is irrelevant" (Rejali 2007:447). Critics often lament this, pointing out that the public debate about torture shortcuts the deontological standpoint that is inscribed into international prohibitions of torture by assuming that the ethical evaluation of torture depends on whether or not it leads to the collection of good

intelligence. Still, critics of enhanced interrogation *do* engage claims about the effectiveness of torture; in so doing, they produce their own accounts that the “enhanced interrogation” program was an ineffective, counter-productive, and, perhaps, destructive way of collecting human intelligence.

That waterboarding is an effective way of collecting intelligence is necessary for its defense. It is, however, a component of a broader discursive construction of the practice as a legitimate use of force. To construe waterboarding as a “mandated course of action,” an act “representative of proper organizational behavior” (Smith 1990a:139), congressional proponents produced an account of its use with several stages. The CIA’s use of “enhanced interrogation” is construed as legitimate when fitted into a broader narrative structure. This narrative begins with an initial offense: A detainee is known to have engaged in terrorism against the U.S. and is suspected of having knowledge of impending attacks. The detainee is then captured and traditional interrogation practices, which do not involve the application of pain, are used, but fail to compel the detainee to provide intelligence. Enhanced interrogation is then used and this results in the collection of “actionable” intelligence—information that has some practical application to the protection of U.S. interests and security. These stages, which I have adapted from Dorothy Smith’s (1990a) analysis of police action, may be represented as follows:

Offense → Capture → Traditional Interrogation → [Enhanced Interrogation] →
Actionable Intelligence

Enhanced interrogation “appears in square brackets to denote its instrumental character”; it is “mandated so long as it has an instrumental relation to the mandated

course of action” (Smith 1990a:138). Notably, though, the discursive production of enhanced interrogation as “instrumental” also involves construing enhanced interrogation as internally instrumental, as practiced in a controlled, clinical manner. Pain is inflected only so long as it moves the mandated course of action forward; it ceases once it achieves its goal.

In November, 2007, a month before Hayden revealed that the CIA had destroyed tapes of its interrogations, the Subcommittee on the Constitution, Civil Rights, and Civil Liberties of the House Judiciary Committee held a hearing entitled, “Torture and the Cruel, Inhuman and Degrading Treatment of Detainees: The Effectiveness and Consequences of ‘Enhanced’ Interrogations.” In his opening statement to the Subcommittee’s November, 2007 hearing, the ranking Republican, Trent Franks of Arizona, articulated this defense of waterboarding. Franks described the CIA’s use of waterboarding as both “legal” and “controlled.” He described the CIA’s interrogation of Khalid Sheikh Mohammed, the alleged mastermind of the September 11 terrorist attacks, in support of the Agency’s interrogation program.

Khalid Sheikh Mohammed, the driving force behind the 9/11 attacks, stayed quiet for months after his capture. The interrogators eventually reportedly used some version of what is called waterboarding on him for just 90 seconds, at which point he began to reveal information that helped authorities arrest at least six major terrorists, including some who were in the process of plotting the bringing down of the Brooklyn Bridge, bombing a hotel, blowing up U.S. gas stations, poisoning American water reservoirs, detonating a radioactive dirty bomb, incinerating residential high-rise buildings by igniting apartments filled with natural gas, and carrying out large-scale anthrax attacks. (U.S. Congress 2008c:3)

Frank’s depiction is typical of proponents’ portrayals of waterboarding as professionally administered, used briefly, and effective. Indeed, during the House

Judiciary Committee's December 20 hearing on the CIA's videotapes, Lamar Smith, the Committee's ranking Republican, described Mohammed's interrogation in nearly identical language: "According to reports, Khalid Sheikh Mohammed, the mastermind behind the 9/11 attacks that killed 3,000 people, stayed quiet for months until he was waterboarded for just 90 seconds" (U.S. Congress 2009a:4). Smith's account of waterboarding, however, began with the interrogation of Abu Zubaydah, an alleged-associate of Osama Bin Laden.⁵³

But while we can't watch the videotapes, ABC News conducted a very telling interview with one of the former CIA officials, John Kiriakou, who was involved in one of the videotaped interrogations of terrorist Abu Zubaydah. When the terrorist Zubaydah, a logistics chief of al-Qaeda, was captured, he and two other men were caught in the act of building a bomb. A soldering gun that was used to make the bomb was still hot on the table along with building plans for a school. Zubaydah refused to offer any actual intelligence until he was waterboarded for between 30 and 35 seconds. According to Mr. Kiriakou, from that day on he answered every question. The threat information that he provided disrupted a number of attacks, perhaps dozens of attacks. (U.S. Congress 2009a:4)

Smith's account of Abu Zubaydah's interrogation is notable for several reasons.

Though he cited a different instance of waterboarding than did Frank, both Representatives produce narratives with nearly identical structures. Appearing, as these narratives did, in Republicans' scripted opening statements, it is possible that these narratives were coordinated. In fact, they are also consistent with those that President Bush (2006) offered in defense of the CIA's interrogation program when he acknowledged it in a September, 2006 speech on terrorism. That structure, moreover,

⁵³ In March of 2009, the *Washington Post* reported that though President George W. Bush described Abu Zubaydah as "al-Qaeda's chief of operations" and other government officials referred to Abu Zubaydah's involvement in the September 11, 2001 terrorist attacks, Abu Zubaydah had no direct ties with al-Qaeda at the time of the attacks.

situates the use of waterboarding within the broader mandated course of action that I described above (see Figure 8).

Figure 8. Waterboarding as a Mandated Course of Action

Mandated Course of Action	Abu Zubaydah's Interrogation	Khalid Sheikh Mohammed's Interrogation
Offense	Abu Zubaydah is a logistics chief of al-Qaeda, was caught in the act of building a bomb and with building plans for a school	Mohammed was the driving force behind the 9/11 attacks
Capture	Zubaydah was captured while building a bomb	Captured
Traditional Interrogation	Zubaydah refused to offer any actual intelligence	Mohammed stayed quiet for months after his capture
Enhanced Interrogation	Until he was waterboarded for between 30 and 35 seconds	Interrogators eventually waterboarded Mohammed for just 90 seconds
Actionable Intelligence	From that day on, Abu Zubaydah answered every question; information disrupted a number of attacks, perhaps dozens	At which point, Mohammed began to reveal information that led to arrest of six major terrorists involved in several significant plots.

Smith's account is also notable for making explicit the representational lacuna that the videotapes might have filled. Smith, however, offers that this gap in the textual reality of waterboarding can be filled without the tapes. To do this, Smith employed the account of John Kiriakou. During a December 10 interview with ABC News, Kiriakou, a former-CIA officer, acknowledged the CIA's use of waterboarding on Abu Zubaydah. Although he had not directly witnessed Zubaydah's waterboarding, Kiriakou was Smith's source for the claim that the CIA waterboarded Zubaydah for between 30–35 seconds. Kiriakou further described Zubaydah's response to his waterboarding in dramatic terms.

A short time afterwards, in the next day or so, [Zubaydah] told his interrogator that Allah had visited him in his cell during the night and told him to cooperate because his cooperation would make it easier on the other brothers who had been captured. And from that day on, he answered every question just like I'm sitting here speaking to you. (Esposito and Ross 2007)

In 2008, the CIA offered proponents of waterboarding another account of waterboarding to ground their portrayals of the practice. On February 5, 2008, during a Senate hearing on intelligence, Hayden publicly admitted the use of waterboarding on three detainees. Hayden's acknowledgment was brief and framed the CIA's use of the practice within a national security context.

Let me make it very clear and to state so officially in front of this Committee that waterboarding has been used on only three detainees. It was used on Khalid Shaykh Mohammed. It was used on Abu Zubaydah. And it was used on Nashiri. [...] We used it against these three high-value detainees because of the circumstances of the time. Very critical to those circumstances was the belief that additional catastrophic attacks against the homeland were imminent.⁵⁴ (U.S. Congress 2009f:71–2)

Hayden later testified to reporters that two of those detainees—Zubaydah and Mohammed—provided about 25 percent of the CIA's information on al Qaeda (Esposito 2008).

Proponents of waterboarding subsequently incorporated Hayden's account into their defenses to stress the instrumental relation the practice bore to a mandated course action and its internal, instrumental structure—as rarely and only ever briefly used. A

⁵⁴ Hayden's remarks on the enhanced interrogation program employ implicative denial—specifically, the claim of necessity (Cohen 2001)—to justify the program's use. In so doing, Hayden employs a term—"homeland security"—with a significant and contested meaning. Early in the U.S.'s "war on terror," Amy Kaplan (2003) argued that the term construes the nation as a fixed space with stable borders. This meaning of homeland "has an exclusionary effect that underwrites a resurgent nativism and anti-immigrant sentiment and policy" (p. 87). Indeed, the word has "fascist connotations" (p. 88); it conjures, in the American collective imaginary, visions of the German "fatherland" and the Russian "motherland" (p. 85). It is of note that the term "homeland security" only enters American political discourse in 1995, after the end of the Cold War and with the emerging perception that the primary threat to U.S. security comes from stateless terrorist organizations (Beresford 2004).

statement from Franks, made during his May 6, 2008 opening statement to Subcommittee on the Constitution hearing, exemplifies this.

The results of a total of 3 minutes of severe interrogations of three of the worst of the worst terrorists were of immeasurable benefit to the American people. CIA Director Hayden said that Mohammed and Zabeda provided roughly 25 percent of the information that the CIA had on al-Qaida from all human sources. Now we just need to kind of back up and thought about that. A full 25 percent of the human intelligence we have received on al-Qaida from just 3 minutes worth of a rarely used interrogation tactic. (U.S. Congress 2008a:3)

Franks' offered a similar statement in the Subcommittee's June 18th and July 15th hearings interrogation policy. When, on July 17, the full Judiciary committee held final of its hearings in this series of hearings, Lamar Smith again offered a statement comparable to Franks'. As he had during the committee's December 20, 2007 hearing on "enhanced interrogations," Smith alluded to Kiriakou and cited the use of "special interrogation methods" on Abu Zubaydah "for between 30 to 55 seconds" (U.S. Congress 2009b:2). The result, Smith pointed out, was that "from that day on [Zubaydah] answered every question" (U.S. Congress 2009b:2).

This portrayal of waterboarding buttressed with the claim that the CIA's use of waterboarding involved "precise procedures." The legal status of waterboarding would come, in defenses of it, to depend on these. Stephen Bradbury introduced this claim during a House Judiciary Committee hearing on February 14, 2008. As Principal Deputy Assistant Attorney General for the Office of Legal Counsel, Bradbury provided the CIA with legal advice on enhanced interrogation. Specifically, Bradbury provided, in two May, 2005 memos, legal advice to the CIA that enhanced interrogation practices, including waterboarding, did not violate domestic and international laws against torture.

At the time of the hearings, the memos were classified, but their existence was public knowledge. During the hearing, Democrat Robert Scott pressed Bradbury on the legal status of waterboarding.

Scott: [I]s there any international precedence outside of this Administration that suggests that waterboarding is not torture? Anybody else in the world ever consider waterboarding not torture except this Administration?

Bradbury: I am not aware of precedents that address the precise procedures used by the CIA. I'm simply not aware of precedents on point. And that's often what makes, frankly what makes our job difficult. (U.S. Congress 2008b:28)

In proponents' discursive construction, waterboarding appears a rarely-used and briefly administered practice; the incorporation of "precise procedures," furthermore, prevents the practice from satisfying the legal definition of torture. Waterboarding, then, possesses an instrumentality that permits it to fit a broader course of legitimate action. It is this portrayal that critics of the practice would challenge.

CHALLENGING THE MANDATED COURSE OF ACTION

The CIA closely guarded first-hand accounts of waterboarding, going so far as to destroy videotapes of their interrogation. The accounts of those who directly observed or participated in the interrogations were publicly unavailable in 2007 and 2008. In place of such accounts, Kiriakou offered a second-hand account; Hayden offered the Central Intelligence Agency's sanctioned account. Proponents of waterboarding drew on these accounts to legitimate the practice's use. Critics of the practice, however, would seek interpretive resources elsewhere—in, for instance, the first-hand accounts of waterboarding offered by those who underwent it during SERE training, unnamed

sources who challenged the CIA's account, and in historical cases of the use of water torture.

In drawing on these resources, critics explicitly challenged components of proponents' narratives of waterboarding. For instance, during the House Judiciary Committee's fifth and final hearing on the Department of Justice's role in the authorization of interrogation policies, Walter Dellinger, head of the Office of Legal Counsel during the Clinton administration, alluded to "information" that suggested that the waterboarding of Khalid Sheikh Mohammed had not produced good intelligence.

I find interesting [...] the constant reference to Khalid Sheikh Mohammad and the premise that the information that has been generated from him was, as a proximate cause, a result of waterboarding, because my information contradicts that. It's when the rapport effort was undertaken that information came from Khalid Sheikh Mohammad, and that he was resistant during the course of the efforts to secure information from him as a result of waterboarding. (U.S. Congress 2009b:51)

This account directly challenges waterboarding's appropriateness within a mandated course of action. It does so in two ways. First, Dellinger argued that traditional interrogation techniques—what he refers to as rapport efforts—in fact succeeded at generating actionable intelligence from Mohammed. This implies that the waterboarding of Mohammed was unnecessary. But Dellinger goes further, to also suggest that Mohammed resisted waterboarding.

During a Senate Judiciary Committee on "coercive interrogations," Jack Cloonan, a former-FBI interrogator, also challenged proponents' accounts of Mohammed's interrogation by questioning whether it was necessary to waterboard Mohammed.

I had an opportunity, frankly, to look at some of the videotape when he was first detained by the Pakistani authorities. And it was my conclusion, just based on

looking at him very quickly, he was not going to be a tough nut to crack. This is a man who is very proud of what he did. He was celebrating what he did. This is what his life was. And all you had to do, frankly, is have the opportunity to let him tell his story. And I believe that we did not have to engage in any techniques that are alleged to have occurred against him, waterboarding being one. (U.S. Congress 2009e:49–50)

Daniel Levin, who had served in the National Security Council and Department of Justice under both Presidents George H.W. Bush and George W. Bush, appeared before the House Subcommittee on the Constitution on June 18, 2008. During the hearing, Levin challenged, albeit obliquely, the claim that waterboarding had been used for 3 minutes. Noting that he was “very limited in what” he could say, Levin noted that, “if the Subcommittee has been informed that there was a total of 3 minutes of waterboarding, I would suggest the Subcommittee should go back and get that clarified because that, I don't believe, is an accurate statement” (U.S. Congress 2009c:9).

That neither Dellinger nor Levin could speak publicly with precision or clarity about the CIA's use of waterboarding is suggestive of the representative impoverishment of critics. Lacking official accounts of the CIA's use of waterboarding, congressional critics, and their like-minded witnesses, typically looked elsewhere for interpretive resources to construct their claims. Critics, moreover, lifted waterboarding outside of its mandated course of use on high-profile detainees. Instead, critics levied their arguments at the practice outside its specific context of use. That is, critics rarely directed their arguments at the CIA's specific use of practice on Abu Zubaydah or Khalid Sheikh Mohammed. Rather, they argued that waterboarding was, generally, an ineffective way of collecting intelligence and would cause severe pain equivalent to that of torture. In so doing, critics sought to cast doubt on the instrumentality of waterboarding. Critics,

moreover, attempted to broaden the terms of political discourse, recontextualizing the CIA's interrogation program within the global consequences of its use. While proponents' narrative of waterboarding tended to end with the collection of actionable intelligence and the prevention of terrorist attacks, opponents argued that the use of waterboarding harmed the U.S.'s reputation and made the country less secure. Finally, critics attempted to further erode the propriety of waterboarding by associating it with the historical use of torture by illiberal regimes.

Challenging the Instrumentality of Waterboarding

Proponents of waterboarding argued that the CIA used the practice rarely, briefly, and in a way involving "precise procedures." Critics, on the other hand, portrayed waterboarding as a practice that caused significant physical pain and that could not likely be used in a controlled manner.

On November 8, 2007, Malcolm Nance, a national security expert, former member of the U.S. military, and a former SERE instructor for the Navy, appeared before the House Subcommittee on the Constitution. As a SERE instructor for the Navy, Nance had undergone waterboarding. In his opening statement, Nance described his experience of waterboarding, explicitly contrasting it with prevailing representations of the practice.

Most media representations or recreations of the waterboarding are inaccurate, amateurish, and dangerous improvisations which do not capture the true intensity of the act. Contrary to popular opinion, it is not a simulation of drowning. It is drowning. In my case, the technique was so fast and professional that I didn't know what was happening until the water entered my nose and throat. It then pushes down into the trachea and starts to process a respiratory degradation. It is an overwhelming experience that induces horror, triggers a frantic survival

instinct. As the event unfolded, I was fully conscious of what was happening: I was being tortured. (U.S. Congress 2008c:22–3)

Later in the hearing, Democrat Artur Davis, posed a series of questions to Nance about the possible outcomes of waterboarding. Davis asked Nance, in sequence, whether waterboarding, if “done in the wrong way,” could “kill somebody,” “cause someone to have a seizure,” and “cause brain damage.” Nance answered in the affirmative to each question, adding that that waterboarding could “easily” kill someone and could, “yes, of course,” cause brain damage. Davis concluded the line of questioning by arguing that the context of American interrogations made it more likely that waterboarding could be misused:

[I]f waterboarding happens in the adrenaline-pumped setting of a real interrogation, if waterboarding happened in the context of an environment where there really was an effort to extract information, as opposed to a simulated practice technique, it strikes me that there is a significant, quantifiable risk that it could cause a loss of human life. (U.S. Congress 2008c:55–6)

Lacking an interpretively useful first-hand account of the CIA’s “enhanced interrogation” program, Davis drew attention to *possible* outcomes of waterboarding and pointed to differences within the context of SERE and the context of an actual interrogation of an enemy.

Amrit Singh, an ACLU lawyer who also appeared before the Subcommittee, employed a different tactic to challenge proponent’s portrayal of the CIA’s interrogation program. Although Singh’s statement does not specifically address waterboarding, her statement is notable for its direct challenge to proponents’ portrayal of “enhanced interrogation” as clinically used.

Second, clinical descriptions of enhanced interrogation methods conceal the severity of the mental and physical damage caused by these methods. For example, in one Government document, an FBI agent describes the devastating consequences of interrogations in which military personnel employed “environmental manipulation” techniques. Environmental manipulation refers to exposure to extreme temperatures. And the FBI agent observes, “On a couple of occasions, I entered interview rooms to find a detainee chained hand and foot in a fetal position to the floor, with no chair, food or water. Most times they had urinated and defecated on themselves and had been left there for 18 to 24 hours or more. On one occasion, the air conditioning had been turned so far down and the temperature was so cold in the room that the barefooted detainee was shaking with cold. On another occasion, the air conditioning had been turned off, making the temperature in the unventilated room probably well over 100 degrees. The detainee was almost unconscious on the floor, with a pile of hair lying next to him. He had apparently literally been pulling his own hair out throughout the night.” (U.S. Congress 2008c:37)

Singh’s statement draws on the FBI allegations—inscribed in emails—about detainee abuse at Guantánamo. These allegations, which are the subject of Chapter 5, are distinguished by the fact that they are generated by (critical) official sources. They are also distinguished by their sources’ proximity to the primary experience of abuse. Given this proximity, the accounts retrieve the “distinctive local historical character” of detention and interrogation practices that the official vocabulary for those practices typically substitutes (Smith 1990a:154). Significantly, the FBI’s accounts are, as Singh points out, difficult to accommodate in the callous or clinical image of torture. The accounts employ evocative images that represent the vulnerabilities of the suffering body—the fetal position, urination, defecation, shivering, and the pile of hair.

By construing waterboarding to be a practice likely to have severe, if not lethal, physical consequences, critics challenged proponents’ image of the practice as controlled, measured, and professionally administered. This challenge aimed at the internal instrumentality of the practice, the argument that the pain of waterboarding could be

effectively managed. Critics also attacked the external instrumentality of the practice, its position within a broader sequence of action that situated the practice as a tool for the collection of information. Again, lacking the grounds to speak (at least publically) about alleged failures of CIA interrogations, critics drew attention to the historical origins of the waterboarding and to commonsensical understandings of how those who suffered waterboarding would respond.

The source of the CIA's enhanced interrogation program was the U.S. military's Survival, Evasion, Resistance, and Escape program. If this fact was once a revelation, as when Jane Mayer (2005) initially reported on it for *The New Yorker*, it was, by 2007 and 2008, undisputed. The meaning of this fact, of course, remained a matter of political concern. Proponents of waterboarding ironized congressional concern for CIA interrogation by asking whether the U.S. military's use of waterboarding in SERE indicated that the U.S. tortured its own troops. Critics, however, pointed to both the purpose of SERE and its origin in a "communist interrogation model" concerned with propaganda, not actionable intelligence, to question the use-value of waterboarding.

Simply put, critics argued that because SERE was designed to train soldiers to resist practices used by the nation's enemies to generate false confessions, practices deriving from SERE are inefficient means of producing truth. Malcolm Nance, the former-SERE instructor, noted

The SERE community was designed over 50 years ago to show that, as a torture instrument, waterboarding is a terrifying, painful and humiliating tool that leaves no physical scars and which can be repeatedly used as an intimidation tool. Waterboarding has the ability to make the subject answer any question with a truth, a half-truth, or outright lie in order to stop the procedure. (U.S. Congress 2008c:22)

Steven Kleinman made a similar point in his opening statement to the Senate Armed Services Committee on September 25, 2008:

First, many of the methods used in SERE training are based on what was once known as a communist interrogation model; a system designed to physically and psychologically debilitate a person, a detainee, as a means of gaining compliance. Second, the model's primary objective was to compel a prisoner to generate propaganda, not provide intelligence. (U.S. Congress 2009d:175)

The fact that the administration's interrogation policies originated in SERE provided other interpretive resources. Senator Levin, the Chair of the Senate Armed Services Committee, pointed out that SERE instructors are not trained in interrogation; driving home this point, Levin referred to the instructors as "those who play the part of interrogators in the SERE school drama" (U.S. Congress 2009d:3).

In addition to drawing on SERE's history and purpose as an argumentative resource, critics cited specific, historical instances in which enemy interrogators used similar practices to extract false confessions from Americans. When he appeared before the House Judiciary's Subcommittee on the Constitution in 2007, Kleinman described such techniques as producing "compliance":

Compliance is forcing somebody do something that they would not normally want to do and, in some cases, it means against their own interests—the North Koreans, the North Vietnamese, for instance, having a POW admit to dropping chemical weapons on civilian populations, which we knew were not true, but through torture was forced to do that. (U.S. Congress 2008c:53)

Artur Davis, during House Judiciary's Subcommittee on the Constitution February 14, 2008 hearing on the Office of Legal Counsel, mobilized a different historical instance of torture to challenge its effectiveness. Davis posed a lengthy series of questions to Stephen Bradbury about the effectiveness of waterboarding. The exchange

began as an exercise in commonsensical beliefs about pain. Davis began with waterboarding, first asking Bradbury if it would lead someone to feel “distressed” and, then, “extremely frightened.” Bradbury answered affirmatively to both. Davis then asked Bradbury if such feelings would lead a person to tell “a lie.” After Bradbury answered, “I suppose so,” Davis rhetorically pivoted, mobilizing John McCain’s well-known experience during the Vietnam War to dramatize the process by which torture produces false confessions. During the exchange, Bradbury attempted to disrupt Davis’ implicit argument by noting that McCain had “bones broken,” the sort of physical injuries that proponents, including Bradbury, suggest are not caused by “enhanced interrogation” practices.

Davis: John McCain, who is an authentic American hero and is about to become a nominee of the party that I suspect you belong to, was subject to torture in Vietnam, was he not?

Bradbury: Yes, sir.

Davis: And in response to that torture, he signed a confession of being a war criminal. That was a false confession on his part, wasn't it?

Bradbury: Yes, sir.

Davis: It was an inaccurate, untruthful statement, was it not?

Bradbury: Yes, it was.

Davis: And it was in response to the extreme distress and anxiety that he was experiencing, was it not?

Bradbury: I believe he had bones broken and he——

Davis: If you could answer my question.

Bradbury: Yes. Yes, it was.

Davis: That's the concern, Mr. Bradbury, that I think a number of us have. (U.S. Congress 2008b:20–1)

In 2007 and 2008, critics of waterboarding lacked grounds to challenge the implementation and results of the “enhanced interrogation” of high-value detainees, particularly Abu Zubaydah and Khalid Sheikh Mohammed, directly. Instead, they leveled a broader challenge to the wisdom of employing “enhanced” techniques, particularly waterboarding, within a mandated course of action. Specifically, critics insinuated that waterboarding could not be employed clinically and that it would not likely produce actionable intelligence. These criticisms of the practice largely engaged with waterboarding in the same terms as proponents; the wisdom of the CIA’s interrogation program could be evaluated based on a narrow understanding of its instrumentality. Critics, though, went further, recontextualizing the CIA’s program within a global context. In this context, the program’s instrumentality would not merely be measured by its effectiveness at producing actionable intelligence, but also by an array of global consequences.

Recontextualizing the Mandated Course of Action

Critics of the CIA’s detention and interrogation program attempted to weaken the argument for its use-value by broadening the terms of debate and enumerating the domestic and global consequences of the practice and “enhanced interrogation” more generally. Those arguing against the practice cited a range of consequences that tend to cluster into two overarching themes: Waterboarding and other aggressive interrogation practices had harmed the country’s global standing and had negative implications for the

U.S.'s security. Within each of the themes are various sub-arguments. Those who argued that the program harmed the nation's global standing noted that the U.S.'s use of torture weakened the U.S.'s position to influence other nations on matters of human rights; they also made more general statements about the practice's inconsistency with democratic values, such as the rule of law. Those who argued that such practices harmed security tended to cite the fact that the use of such practices legitimized them and put American soldiers at increased risk of torture, weakened global alliances, and provided America's enemies with propaganda to use for recruitment purposes.

In 2003, when the Senate Judiciary Committee received testimony on the abuse of detainees at Metropolitan Detention Center in Brooklyn, the September 11 terrorist attacks, the threat of terrorism more generally, and national security most generally were the dominant, interpretive frameworks through which American officials considered detainee abuse. All participants in the Committee's hearings acknowledged the terrorist attacks and the uncertainty that they provoked. The war in Iraq forced open this framework, as the protection of human rights replaced the protection of national security—through the search for and destructions of weapons of mass destruction—as the legitimating claim for the war. Within this interpretive context, the abuse of detainees *in Iraq* appeared a pressing political problem. This development, however, left a dichotomy in place between the U.S.'s war in Iraq, where the protection of human rights and the rule of law politically mattered, and the U.S.'s broader war on terror. Indeed, when FBI complaints about the treatment of detainees at Guantánamo became public, the administration's supporters in the Senate Armed Services Committee drew on the

distinction between criminal investigations, which the FBI aimed to carry out, and intelligence investigations, which were necessary to combat terrorism, to downplay FBI concerns.

In July 2006, the Supreme Court's landmark ruling in *Hamdan v. Rumsfeld* altered the political environment in which Congress considered detention and interrogation. While the intricacies of the Court's rulings in these *Hamdan* are beyond the scope of this study (see Mahler [2008] for a detailed account of the case), a few words on it are necessary. *Hamdan v. Rumsfeld*, brought on behalf of Salim Ahmed Hamdan, a Yemeni detainee at Guantánamo, challenged the Bush administration's use of military commissions, rather than federal courts, to try alleged terrorist held at Guantánamo. The use of military commissions originated in a November, 2001 military order issued by the President (Bradley, Farer, and Martin 2007). The Court ruled, 5-3, against the administration's military commissions. Significantly, however, the Court did not outright reject military commissions. Rather, they rejected the commissions in part because the administration had failed to seek legislative authorization for them. The Court's ruling also found that the commissions, as constituted by the Bush administration, failed to satisfy the minimum requirements of the Geneva Conventions; specifically, the Court noted the commissions' "failure to guarantee the defendant the right to attend the trial and the prosecution's ability under the rules to introduce hearsay evidence, unsworn testimony, and evidence obtained through coercion" (Greenhouse 2006).

The Court's ruling in *Hamdan* inspired a significant and immediate response from both the executive and legislative branches (Greenhouse 2006). Indeed, the fact that the

Court ruled that Congress must authorize the use of military commissions—participate in their design—altered the relationship between the two branches. Prior to the Court’s decision, Congress had largely deferred to the administration’s detention and interrogation agenda. Congress’ hearings on these issues generally followed the release of a major investigation; because they were dominated by witnesses from the executive, these hearings also amplified the executive’s positions on them. Between the Court’s ruling in *Hamdan* in July 2006 and September 2006, the Senate and House Armed Services Committees and the Senate and House Judiciary Committees held several series of hearings on military commissions, the prosecution of detainees, and detainee rights. The witness list in these hearings included members of the executive—Alberto Gonzales, the Attorney General, and Stephen Bradbury, the Assistant Attorney General, most notably. But peppered amidst the witness list were Hamdan’s lawyers, retired military lawyers, human rights representatives, legal scholars, and judges with experience on war crime courts and international crime tribunals. The Court’s ruling in *Hamdan*, by tasking Congress with work with the executive to craft military commissions legislation consistent with the Geneva Convention, had cracked open the official discourse that dominated earlier hearings on detention and interrogation. Now, human rights claims would appear on the discursive stage of congressional hearings.

Indeed, one of the most significant discursive developments following *Hamdan* is the fusion of the “rule of law,” as an interpretive frame, to “national security.” This fusion involved a straightforward argument—the rule of law and American values more generally are a source of global strength for the nation. Adherence to the rule of law in

foreign policy, then, strengthens the U.S.'s global reputation and international alliances; it also distinguishes the Nation from its enemies. Previously, the dominance of a "national security" frame in American political discourse permitted the rationalization and minimization of the abuse and torture of the "September 11 detainees" and, as noted in the previous chapter, the torture of al-Qahtani. The fusion of the rule of law to national security, if successful, would frustrate this form of denial.

By the final two years of the Bush administration, the fusion of the rule of law and national security was fully formed. In critic's discourse of acknowledgment, democratic principles reinforced, rather than opposed, national security; to pursue the former was to pursue the latter. Plotted on this interpretive grid, human rights violations appeared as threats to national security *because* they were inconsistent with the fundamental values that the U.S. shares with its allies. As Alberto Mora, an early, internal critic of enhanced interrogations, told the Senate Armed Services Committee on June 17, 2008:

Because the international legal system, the legal system of many countries, and the international human rights system are all largely designed to protect human dignity, the decision of the United States to adopt cruelty has had a devastating foreign policy consequence. The cruel treatment of detainees is a criminal act for most, and perhaps all, of our traditional allies. As these nations came to recognize the true dimensions of our policy, political fissures between us and them began to emerge, because none of them would follow our lead into the swamp of legalized abuse. (U.S. Congress 2009d:69)

The fusion of national security to human rights and the rule of law also permitted critics of the program to produce an alternative narrative of the September 11 terrorist attacks. Although proponents of the administration's detention program cited September 11 far more frequently than did critics, the homogenous meaning that the attacks had in political discourse of detainee abuse in 2003 had fragmented. Critics of the

administration packaged waterboarding, aggressive interrogations, and torture amongst other controversial policy decisions that the Bush administration made after the September 11 terrorist attacks. Critics then produced a narrative in which those actions instigated a fall from secular grace—characterized by domestic bipartisanship and international support—in the years after September 11, 2001. A statement by Senator Patrick Leahy, the Chair of the Senate Judiciary Committee, exemplifies this narrative.

In the wake of the tragic attacks on September 11th and toward the end of President Bush's first year in office, this country had an opportunity to show that we could fight terrorism, secure our Nation, and bring the perpetrators of those heinous acts to justice, and do it in a way that was consistent with our history and our most deeply valued principles. You will recall we had virtually the whole world on our side at that time. A number of us reached out to the White House, both Republicans and Democrats alike, in an effort to craft a thoughtful, effective bipartisan way forward. The White House chose another path. They diverted our forces away from al Qaeda and capturing Osama bin Laden instead to go to war and occupation in Iraq—a country that had nothing to do with 9/11, and, of course, allowing Osama bin Laden to stay loose. And they chose to enhance the power of the President and to turn the Office of Legal Counsel at the Department of Justice into an apologist for White House orders—from the warrantless wiretapping of Americans to torture. Many of us feel, as I do, that that made our country less safe, not safer. (U.S. Congress 2008e:1)

Critics further altered the meaning of the terrorist attacks by situating their own personal accounts of September 11, 2001 within a narrative similar to Leahy's. Such accounts were typical of former military officials critical of the administration's detention program. Nance, for instance, described how,

On the morning of September 11, at the green field next to the burning Pentagon, I was a witness to one of the greatest displays of heroism in our history. American men and women, both military and civilian, repeatedly and selflessly risked their lives to save those around them.

Nance then reflected,

But does the ultimate goal of protecting America require us to adopt policies that shift our mindset from righteous self-defense to covert cruelty? Does protecting America at all costs mean sacrificing the Constitution, our laws, and the Bill of Rights in order to save it? I do not believe that. (U.S. Congress 2008c:23)

Two other accounts are notable for both their detail and the specificity of their critique. The first derived from the experience of Lieutenant Colonel V. Stuart Couch. The House Judiciary's Subcommittee on the Constitution invited Couch to testify during its November, 2007 hearing on torture. Couch had been assigned to prosecute a detainee at Guantánamo, "Mohamedou Ould Slahi, an alleged senior al-Qaeda operative who was charged with helping to assemble the Hamburg cell, which included the hijacker who piloted United Flight 175 into the South Tower of the World Trade Center" (U.S. Congress 2008c:10). Couch, however, decided against proceeding with Slahi's prosecution. Because the Department of Defense barred Couch from testifying before the Subcommittee, Jerrold Nadler, the Subcommittee's chair, left a seat vacant on the witness panel and summarized Couch's experience, drawing from a March 31, 2007 *Wall Street Journal* article. Nadler recited Couch's personal connection to the September 11 terrorist attack and, then, his realization that the U.S. had tortured.

"When the Pentagon needed someone to prosecute a Guantánamo Bay prisoner linked to 9/11, it turned to Lieutenant Colonel V. Stuart Couch. A Marine Corps pilot and veteran prosecutor, Colonel Couch brought a personal connection to the job: His old Marine buddy was a co-pilot on United 175, the second plane to strike the World Trade Center on September 11, 2001." "But, 9 months later, in what he calls the toughest decision of his military career, Colonel Couch refused to proceed with the prosecution of Mr. Slahi. The reason: He concluded that Mr. Slahi's incriminating statements, the core of the Government's case, had been taken through torture, rendering them inadmissible under U.S. and international law." (U.S. Congress 2008c:10)

Retired Air Force Colonel, and former Chief Defense Counsel in the Department

of Defense's Office of Military Commissions, Will A. Gunn offered a similarly evocative, critical account of the administration's detention program post-September 11.

In 2003, former DOD General Counsel Jim Haynes named me as the first Chief Defense Counsel in the Office of Military Commissions. At that time I was given office space on the first floor of the Pentagon in the section next to the portion that has been seriously damaged on 9/11. Each day I had an opportunity to pass by a plaque, and that plaque included the words spoken by President George W. Bush on the night of September 11, 2001. And that plaque read: "Terrorists can shake the foundations of our biggest buildings, but they cannot touch the foundation of America." Unfortunately, many of our detention policies and actions in creating the Guantánamo military commissions have seriously eroded the fundamental American principles of the rule of law in the eyes of Americans and in the eyes of the rest of the world. (U.S. Congress 2008e:7)

Proponents of the CIA's interrogation program situated it within a mandated course of action with two, intertwined outcomes: the collection of actionable intelligence and the prevention of terror. Critics, however, sought to discursively reposition the program within a broader sequence of actions and results that included the U.S.'s global standing and the international alliances on which the nation's security depends. Within this critical context, the consequentialist terms of the debate about interrogation and torture hold, but the moral and political calculus of waterboarding change. The consequences of the practice—the outcomes by which its instrumentality will be measured—appear far more complex, and far less favorable, than proponents allowed.⁵⁵

The Method of the Enemy

⁵⁵ Indeed, close and critical evaluations of the consequentialist argument for torture, which tends to take the "ticking bomb scenario" as its hypothetical, elaborate a range of likely consequences of torture that those who defend the practice typically exclude from their analysis (Bufacchi and Arrigo 2006; Rejali 2007).

So far, I have largely presented political discourse of waterboarding, interrogation, and torture that frames the practices in consequentialist terms—in terms, that is, that evaluates the CIA’s interrogation program by its practical and political consequences. Critics, however, also mobilized collective representations of illiberal cruelty from the “modern memory” (Rejali 2007) of torture to construe waterboarding as a counter-democratic practice.

Critics of waterboarding frequently associated waterboarding with an array of non-democratic regimes that, historically, used various forms of water torture. Nance, for instance, began his account of waterboarding by describing the Joint Personnel Recovery Agency’s motivation for using waterboarding on American service members.

Within the four SERE schools and the Joint Personnel Recovery community, the waterboard was rightly used as a demonstration tool that revealed to our students the techniques of brutal authoritarian enemies. SERE trained tens of thousands of service members of its historical use by the Nazis, the Japanese, the North Koreans, Iraq, the Soviet Union, the Khmer Rouge, and the North Vietnamese. SERE emphasized that the enemies of democracy and rule of law often ignored human rights, defied the Geneva Conventions, and have subjected our men and women to grievous physical and psychological harm. (U.S. Congress 2008c:22)

As discussed above, SERE training has its institutional origins in the experience of American service members detained and tortured during the Korean War. This fact bolstered critics’ argument that the “enhanced interrogation” practices derived from SERE are properly viewed as a counter-democratic practice. During the Subcommittee’s hearing, Steven Kleinman pointed out that coercive interrogation practices had “been used [in the SERE context] as a result of our exposure to the communist interrogation model that unfolded after World War II and essentially scared the intelligence

community” (U.S. Congress 2008c:30). Carl Levin, also highlighted this fact in his opening statements to the Committee’s June 17 hearing on SERE.

To further code waterboarding and “enhanced interrogation” practices as counter-democratic, critics cited historical precedent, within the United States, of prosecuting waterboarding and other SERE techniques as war crimes. During the House Judiciary’s December 20, 2007 hearing on the CIA videotapes, Elissa Massimino, of Human Rights First, pointed out that the United States’ prosecuted the use of stress positions as a war crime. Marjorie Cohn, a Professor of Law at Thomas Jefferson School of Law and, at the time, the President of the National Lawyers Guild, made a similar claim about waterboarding during the House Subcommittee’s May 6, 2008 hearing on the Department of Justice and interrogation policy: “The United States pushed for and got prosecutions of Japanese leaders after World War II for waterboarding. It is called the water torture, the water cure” (U.S. Congress 2008a:124).

Finally, of the CIA’s interrogation program drew on the historical memory of the Spanish Inquisition to heighten the symbolic stakes of the debate about interrogation. In 2007, Nadler referred to the use of “methods of interrogation so appalling they sound like—and in some cases are—techniques pioneered by the Spanish Inquisition” (U.S. Congress 2008c:1). Nadler offered a more specific comment on waterboarding in 2008: “That is why what is now euphemistically called ‘waterboarding’ has for centuries been more bluntly known as the water torture, from the Inquisition to the U.S. prosecution in the last century of both enemy captors and Americans alike for practicing waterboarding” (U.S. Congress 2008b:2). John Hutson, a former Navy judge advocate general, offered an

evocative critique of waterboarding during the Senate Judiciary Committee's confirmation hearing for Michael Mukasey, who President Bush had nominated to replace Alberto Gonzales as Attorney General. Earlier in the hearing, Mukasey had refused to offer a clear judgment of the legal status of waterboarding, noting only, "If it amounts to torture, it is not constitutional" (U.S. Congress 2008d:187). Hutson, conversely, denied this rendering of waterboarding. Instead, he clustered the practice with other, notorious forms of classical torture—the "rack and thumbscrews"—and referred to waterboarding as "the most iconic example of torture in history. It was devised, I believe, in the Spanish Inquisition. It has been repudiated for centuries." Hutson continued, alluding back to Mukasey's testimony, "It's a little disconcerting to hear now that we're not quite sure where waterboarding fits in the scheme of things" (U.S. Congress 2008d:222).

The association of waterboarding and SERE with illiberal regimes and, in fact, the pre-Enlightenment Inquisition is consistent with two phenomena documented in human rights research and research of torture. Human rights research suggests that human rights organizations frequently use "shaming" to influence state behavior. That is, human rights organizations frequently mobilize the symbolic association of violations, including torture, to denounce norm-violating states as "pariahs which do not belong to the community of civilized nations" (Risse and Sikkink 1999:15). Shaming also appears central to American political discourse. Similarly, research on torture suggests that, within Western collective memories, the practice arrives on the cultural scene with a web of counter-democratic associations and is, typically, purified of its democratic history

(Peters 1985; Rejali 2007). We find, for instance, few references to the U.S.'s use of water torture in the Philippines at the turn of the 20th century or in Vietnam in critical accounts of the practice (Wallach 2006). In their portrayals of waterboarding, critics of the practice strategically deployed these associations to code waterboarding as unworthy of a democracy (Alexander and Smith 1993).

It comes as no surprise, then, that proponents of waterboarding attempted to fend off these associations and to sustain waterboarding as a legitimate use of force. They did so by distinguishing the CIA's method of waterboarding from the historical uses of water torture to which critics referred. Specifically, proponents disassociated waterboarding from critics' historical references by constructing "advantageous comparisons" (Cohen 2001). Proponents distinguished between waterboarding and types of water torture that involve pumping, which involves "forcibly filling the stomach and intestines with water" (Rejali 2007:279). During pumping, "the organs stretch and convulse, causing 'some of the most intense pain that visceral tissues can experience'" (Rejali 2007:279). They also cited the "precise procedures," discussed above, that the CIA used to advance the claim that waterboarding is a professionally-administered practice that does not constitute torture.

During the House Judiciary Committee's February 14, 2008 hearing on the Department of Legal Counsel, Representative Trent Franks questioned Stephen Bradbury on the comparisons critics drew between waterboarding and the historical use of water torture:

I've heard a lot of reports in the press that waterboarding was developed in the Spanish Inquisition and that the United States repeatedly prosecuted it. Is that

true? Do you believe that these past historical practices bear any resemblance to the waterboarding as done by the CIA? (U.S. Congress 2008b:18)

In his lengthy response, Bradbury distinguished between CIA waterboarding and historical instances of water torture. In so doing, he described, in excruciating detail, the effect of pumping on its victims.

To my knowledge, they bear no resemblance to what the CIA did in 2002 and 2003. The only thing in common is, I think, the use of water. The historical examples that have been referenced in public debate have all involved a course of conduct that everyone would agree constituted egregious cases of torture. And with respect to the particular use of water in those cases, as I've indicated, in most of those cases they involved the forced consumption of large amounts of water, to such extent that—beyond the capacity in many cases of the victim's stomach, so that the stomach would be distended. And then in many cases weight or pressure, including in the case of the Japanese, people standing on or jumping on the stomach of the victim, blood would come out of the mouth. And in the case of the Spanish Inquisition, there truly would be agony and, in many cases, death. (U.S. Congress 2008b:18)

Bradbury then criticized the use of “these historical examples” as inaccurate portrayals of “the careful procedures that the CIA was authorized to use with strict time limits, safeguards, restrictions, and not involving the same kind of water torture that was involved in most of those cases” (U.S. Congress 2008b:18)

Bradbury's testimony in response to Frank's questions—and his reply, in the negative, to Representative Steve King question, “are you knowledgeable about any activity that would include a modern version of waterboarding in which the subject's lungs would fill with water, literally?” (U.S. Congress 2008b:23)—are the only occasion, within the sample of hearings that I analyzed, in which the historical comparisons between waterboarding were directly attacked. More generally, the presentation of waterboarding as briefly and rarely used, carefully administered, and effective implicitly

called into question these comparisons. The historical comparisons, however, resonate within the broader culture. Indeed, these competing portrayals of the practice continued to influence debate about waterboarding after the inauguration of Barack Obama. For instance, in February, 2010, two prominent political bloggers, liberal Matthew Yglesias and former-Bush administration speechwriter Marc Thiessen, publicly debated the merits of comparisons between waterboarding and Inquisition torture (Thiessen 2010b, 2010c; Yglesias 2010a, 2010b). Thiessen, like Bradbury, highlighted the practical distinctions between CIA waterboarding, Inquisition water torture, and pumping more generally. Thiessen, further, deployed these distinctions to distinguish between legitimate interrogation practices and the torture of “despotic regimes.”

the CIA never “forced water” down the throats of terrorists. This is a technique called “pumping” that was employed by Imperial Japan and other despotic regimes. They would force water into their victims until their internal organs expanded painfully [...] and the victims passed out from the pain. The torturers would then jump on the victims’ stomachs to make them vomit—reviving them so they could then start the process over again. The CIA never did anything even remotely like this. A few seconds of water being poured over the mouths of terrorists, never entering their stomach or lungs, does not compare to these tortures. (Thiessen 2010b)

Bradbury’s and Thiessen’s defenses of waterboarding leave intact the cultural logic of critics, the binary opposition of democracy and torture, and instead challenge the validity of clustering the CIA’s use of waterboarding with the tortures employed by illiberal or “despotic” regimes. The belief that torture is inconsistent with democracy appears to have a powerful, structuring influence on discourse. There is, however, at least one notable exception to this cultural coding: When, in April 2009, President Obama (2009) cited the example of Winston Churchill as a (democratic) leader who rejected

torture in the face of crisis, observers noted that the President's claim "might have not been entirely accurate," as a National Public Radio host put it (All Things Considered 2009). Following the President's remarks, conservative Bill O'Reilly drew attention to the British's use of torture during on at least two separate occasions. In an ironic turn away from the modern, democratic memory of torture, O'Reilly acknowledged democratic torture in order to argue that, in fact, democracies may turn to exceptional practices in exceptional circumstances (O'Reilly 2009). In a second, ironic twist, then-MSNBC anchor Keith Olbermann responded passionately to O'Reilly; in his segment on O'Reilly's claims, Olbermann attempted to restore the binary between democracy and torture by denying the British use of torture during World War II (Lewison 2009).

CONCLUSION

Michael Hayden's admission that the CIA destroyed video recordings of its interrogation brought the representational lacuna within public textual discourse of waterboarding to the foreground of political debate. Drawing on diverse interpretive resources—the statements of CIA officials, the first-hand experiences of those who experienced waterboarding in a training context, and the historical lineage of SERE practices—proponents and opponents of the practice competed to fill this lacuna with their preferred accounts. These accounts, moreover, oriented to broader, cultural understandings of state violence. Proponents of waterboarding portrayed the practice as clinically (Rejali 1994) and professionally administered; this construction of waterboarding resonates with the cultural archetype (Athey 2007) and liberal ideology (Luban 2007) of torture as a means

to the end of actionable intelligence. In this construction, the torturer administers pain only after traditional interrogation techniques have failed, in a controlled, callous (Collins 1974; Hooks and Mosher 2005) fashion, and only until the end—the extraction of intelligence—is reached. Thirty to thirty-five seconds, proponents said, for Abu Zubaydah; just ninety seconds for Khalid Sheikh Mohammed.

Critics challenged proponents' narratives of waterboarding as clinical and instrumental. They drew attention to the severe physical consequences of the practice and to its origin in models of interrogation that produced false confessions, not actionable intelligence. They also altered the moral and policy calculus associated with the practice by elaborating the global consequences of the practice for the U.S.'s reputation and national security. Finally, critics mobilized collective representations of illiberal cruelty from the modern memory of torture (Rejali 2007) to deny waterboarding a place in the democratic toolkit of interrogation.

Significantly, the image of “enhanced interrogation” as a professionally-administered, clinical practice does not simply structure public defenses of it. It also appears to have neutralized prohibitions on torture for the lawyers, policy makers, and interrogators who reviewed, authorized, and used it (Sykes and Matza 1957). Indeed, this image appears to have operated as a simulation of interrogation—a model that American lawyers, politicians, intelligence agents, and military officials attempted to impose on reality and, then, engage with in “ceaseless loops of interaction” (Pfohl 2005; Baudrillard 2001). As a model of interrogation, this image of interrogation presumes a science of violence—the possibility of controlling and incrementally increasing pain; it is “a cold,

statistically-detached, and abstractly interchangeable form of power” that “that appears (but only always appears) to float free of the bodies” on which it is deployed (Pfohl 1993:128).

This, for instance, is how the CIA described “dietary manipulation” to Steven Bradbury, who, as the head of the Office of Legal Counsel, reviewed and re-approved the CIA’s interrogation program in 2005.

The CIA generally follows as a guideline a calorie requirement of 900 kcal/day + 10 kcal/kg/day. This quantity is multiplied by 1.2 for a sedentary activity level or 1.4 for a moderate activity level. Regardless of this formulate, the recommended minimum calorie intake is 1500 kcal/day, and in no event is the detainee allowed to receive less than 1000 kcal/day. Calories are provided using commercial liquid diets (such as Ensure Plus), which also supply other essential nutrients and make for nutritionally complete meals.⁵⁶

Of waterboarding, the CIA proposed,

In this technique, the detainee is lying on a gurney that is inclined at an angle of 10 to 15 degrees to the horizontal, with the detainee on his back and his head toward the lower end of the gurney. A cloth is placed over the detainee’s face, and cold water is poured on the cloth from a height of approximately 6 to 18 inches. [...] A single “application” of water may not last for more than 40 seconds, with the duration of an “application” measured from the moment when water—of whatever quantity—is first poured onto the cloth until the moment when the cloth is removed from the subject’s face.

The CIA’s proposal also discusses the use of “saline solution instead of plain water to reduce the possibility of hyponatremia [...] if the detainee drinks the water.”

⁵⁶ In a footnote in this passage, Bradbury compares these restrictions to those that “individuals who voluntarily engage in commercial weight-loss programs” adhere: “While we do not equate commercial weight loss programs and this interrogation technique, the fact that these calorie levels are used in the weight-loss programs, in our view, is instructive in evaluating the medical safety of the interrogation technique.” These comments recall a brief note that Secretary of Defense Donald Rumsfeld added to his December 2, 2002 authorization of harsh techniques: “I stand for 8-10 hours a day. Why is standing limited 4 hours?” Rejali (2007) argues that “clean” torture practices interfere with political communities’ ability to perceive them as pain-inducing because they do not leave physical proof of their use on the bodies of victims. This interference may also be a result of the practices’ superficial resemblance to everyday deprivations and discomforts.

And, as Khalid Sheikh Mohammed alleged to the International Committee of the Red Cross, the CIA may have attached blood-oxygen monitors to those who they waterboarded (International Committee of the Red Cross. 2007).

These descriptions of “enhanced interrogation” imply a science of pain and a mechanics of violence that neither empirical research (Rejali 2007) nor the CIA’s experience, as best we now understand it, supports. Indeed, the reality of torture haunts the liberal ideology of violence, always threatening to pierce its interpretive borders (Avery Gordon 2008; Pfohl 2008). I find support for this claim in a flood of documents, released in April, 2009, that described the “actual implementation” of “enhanced interrogation.” That month, the Obama administration released a series of Department of Justice memoranda on the CIA’s interrogation program. The documents suggested that the CIA had used waterboarding “with far greater frequency than initially indicated [...] and also [...] in a different manner” (Bradbury 2005:41). Media reports based on the documents reported that waterboarding had been used “266 times on 2 suspects” (Shane 2009). While the precise meaning of this figure was contested (Abrams 2009), it is clear that the “precise procedures” that the practices allegedly involved might not have been precisely followed.

Later in April, *The New York Review of Books* released an International Committee of the Red Cross (ICRC) report on the treatment of 14 “high-value” detainees who had been transferred from the CIA’s black sites to Guantánamo in 2006. Amongst the detainees were Abu Zubaydah, Khalid Sheikh Mohammed, and Al Nashiri, the three detainees that the CIA has admitted waterboarding. Zubaydah’s account of the practice

suggests that the CIA's official version of his interrogation silenced elements of its implementation that did not fit the clinical image of the practice.

I was then [...] put on what looked like a hospital bed, and strapped down very tightly with belts. A black cloth was then placed over my face and the interrogators used a mineral water bottle to pour water on the cloth so that I could not breathe. After a few minutes the cloth was removed and the bed was rotated into an upright position. The pressure of the straps on my wounds was very painful.⁵⁷ I vomited.⁵⁸ The bed was then again lowered to horizontal position and the same torture carried out again with the black cloth over my face and water poured on from a bottle. On this occasion my head was in a more backward, downwards position and the water was poured on for a longer time. I struggled against the straps, trying to breathe, but it was hopeless. I thought I was going to die. I lost control of my urine. Since then I still lose control of my urine when under stress. (International Committee of the Red Cross. 2007:10)

This, perhaps, is what the CIA's videotapes documented: "inconvenient, involuntary memories" (Rejali 2007:550)—the excesses of violence, the leaky, suffering body—that the liberal ideology of torture represses.

⁵⁷ Zubaydah suffered significant wounds from being shot during capture.

⁵⁸ The Department of Justice's memoranda indicates that the CIA attempted to prevent waterboarding from causing vomiting by putting detainees on a liquid diet (Bradbury 2005).

Conclusion

Between 2004 and 2008, a critical discourse of torture emerged in American politics. In this discourse, American detention and interrogation practices—which included the use of stress positions, forced nudity, “gender coercion,” sleep deprivation, and waterboarding—were named “torture.” Political elites who articulated this discourse construed these practices, and the facilities in which they were used, as symbols of the excesses of the Bush administration. They also produced a frame for torture in which respect for the rule of law and the protection of human rights strengthened U.S. security. In this frame, torture weakened the country by eroding the U.S.’s alliances with allies who valued the laws of war and by eroding the country’s global image.

The 2008 American presidential campaign and election appeared to signal the success of this critical discourse. Both major party candidates took anti-torture positions, accepting that torture harmed U.S. interests. The Democrat’s candidate, Barack Obama, won the 2008 Presidential election and, two days after his inauguration, signed executive orders closing the detention facility at Guantánamo Bay, limiting U.S. interrogators to the practices listed in the Army’s Field Manual for interrogation, and ordering closed all CIA detention facilities. In these executive orders, President Obama institutionalized the critical discourse of torture, transforming it into policy. The Obama administration further eroded the discursive conditions of torture when it requested that Pentagon staff use the term “Overseas Contingency Operation” in place of the “Global War on Terror”; according to some observers, this change may have been aimed at recognizing terrorism as a crime, rather than an act of war (Burkeman 2009). As such, the change (seemingly)

circumscribed the sort of action that the executive could take to counter terror and further elevated the “rule of law” as a guiding principle for that action.⁵⁹

The critical discourse, however, never achieved its full policy aims, nor has it settled debate about the nature and effectiveness of pain-inducing interrogation practices. The detention facility at Guantánamo appears, as of writing, to be a permanent feature of the war on terror, as the Obama administration has signaled its willingness to hold detainees indefinitely and Congress has, in turn, prevented the transfer of Guantánamo detainees to the U.S. (McGreal 2011). Former members of the Bush continue to promote “enhanced interrogation” as a necessary component of the war on terror. The U.S.’s killing of Osama of Bin Laden, in May 2011, provided a recent occasion for such a debate (McCain 2011; Shane and Savage 2011). Media and human rights reporting have also raised concerns about the continued use of secret prisons and pain-inducing techniques on detainees in U.S. custody (Baker 2009; Harper 2011; New York Times 2011; Partlow and Tate 2009). Efforts to investigate and pursue accountability for torture have also been frustrated. In the early months of Obama’s presidency, Congressional Democrats—most notably, Senate Judiciary Committee Chair Patrick Leahy—expressed interest in pursuing an independent investigation into the abuses of the Bush administration; President Obama, however, refused to support such efforts, observing that he “was more interested in looking forward” than he was “in looking backward” (New York Times 2009).

⁵⁹ The legacy of these developments are unclear and, in fact, the Obama administration has continued, if not intensified, a number of Bush-era, counter-terror policies, including the use of military commissions, the use of drone, and targeted assassinations.

The precariousness of the critical discourse of torture may be observed, even, in how Barack Obama, as both presidential candidate and President, speaks of torture. As a candidate, Obama referred to torture as an “issue” and a “key issue.” “Torture has metamorphosed,” Mark Danner (2008) wrote a month after the 2008 American presidential election, “from an execrable war crime to a ‘key issue.’ From something forbidden by international treaty and condemned by domestic law to...something to be debated.” As President, Obama fitted torture into a similar discourse, noting during his Nobel Lecture that he had “prohibited torture.” This claim, as Danner (2010) has observed, is both ironic, since international and domestic laws already prohibited torture, and dangerous, since it construes torture as a policy choice, a practice that an American president can, legitimately, permit. Danner’s analysis appears prescient. During a November 13, 2012 debate during the Republican presidential primaries, Republican candidates were asked their “stance” on torture. While no candidate supported torture, Herman Cain and Michele Bachman (CBS News 2011) both distinguished waterboarding from torture; just over two weeks later, Newt Gingrich made a similar claim (Armbruster 2011).

Social scientists have argued that torture arrives on the contemporary political scene, particularly in states that value liberal democratic values, with a bundle of historical associations that renders torture toxic (Hajjar 2009; Peters 1985; Rejali 2007). That torture is practiced covertly, that interrogators prefer techniques that leave few marks, and that governments deny torture suggest that states, particularly those that seek domestic and international legitimacy, are loathe to be observed torturing. Within

American political discourse, the precariousness of anti-torture politics appears, on its face, to undermine this claim. One might argue, with Danner, that American political culture has normalized or legitimated torture—that torture is no longer, as Malise Ruthven once called it, the “threshold of outrage” (as quoted in Peters 1985:151) of contemporary societies, but, merely, one of many “key issues.”

Versions of the normalization hypothesis appear in recent scholarly work (Jackson 2007b; Luban 2007; Todorov 2009). The argument involves a subtle, but consequential, analytic move. It requires viewing each discursive justification of “enhanced interrogation” as, actually, a discursive justification of torture. It involves, in other words, siding with the Bush administration’s critics in Congress and allowing that “enhanced interrogation” is actually torture. Politically, such a move is a requisite of resisting the political and discursive conditions that make torture viable (Crelinsten 2003, 2005). It is also, from a human rights and legal perspective, a valid naming of these practices (Physicians for Human Rights 2007). By making this move, however, social scientists “cut themselves off from vital modes of observation and interpretation” (Edelman 1988:6). Specifically, they fail to observe the extent to which those who normalize “enhanced interrogation” seek to neutralize the comparisons between these practices and torture.

If we do not treat a rationalization of “enhanced interrogation” as a rationalization of torture, we observe that, within American political discourse, “torture” remains coded as counter-democratic. We may also observe the considerable and precarious interpretive work that those who support “enhanced interrogation” engage to prevent the practices

from becoming socially recognized as “torture.” Indeed, in this study, I have documented that proponents of “enhanced interrogation” paid rhetorical respect to domestic and international prohibitions on torture. They also construed their favored practices, including waterboarding, as instrumentally and clinically practiced, as “enhanced interrogation” rather than “torture.” They further distinguished between those practices and historical instances of torture by drawing attention to the legal reviews of and safeguards involved in the use of “enhanced interrogation.” We may read these efforts cynically, as the strategic effort of public officials to preserve their preferred policies and the public images of those who permit those policies. Surely, it has this latent function. Interpreting this discourse in this way, however, does not preclude us from recognizing another possibility. The cultural toxicity of torture continues to exert itself in political discourse, structuring officials’ efforts to publicly legitimate pain-inducing interrogation practices.

KNOWLEDGE AND CULTURE IN POLITICAL DISCOURSE

Members of Congress oriented their statements about detention and interrogation to official accounts of these practices. Inscribed in texts—photographs, official investigations, interrogation logs, and emails—such accounts mediate discourse and provide the rudimentary reality that Congress’ scrutinizes when it debates these issues. This reality—this political knowledge—intersects with the cultural coding of torture as counter-democratic in two ways.

First, and as I have suggested throughout this study, first-hand representations of detention and interrogation, when produced by American interrogators and soldiers, tend to weaken the credibility of portrayals of American detention and interrogation practices as professional, instrumentally organized, and clinically administered. They do so because they portray the disorders and excesses of American interrogation. Many viewers of the Abu Ghraib photographs saw ferocious if not sadistic violence—violence pursued as an end in itself, rather than for instrumental reasons (Hooks and Mosher 2005). Mohammed al-Qahtani’s interrogation log betrayed the supposed professionalism of American interrogators; in it, interrogators logged their own creative combination of pain-inducing practices and invention of forms of “gender coercion.” The FBI’s descriptions of Guantánamo, meanwhile, portrayed the excesses of American detention and interrogation—the isolated detainee, shackled, shivering in the fetus position, laying amidst his own bodily fluids and matter—and effectively externalized detainees’ inner experience of pain, rendering it visible to observers (Scarry 1985, 2007).

The second way that political knowledge and culture intersect is more speculative. The strength of the cultural coding of torture may not simply structure political discourse, but also produce mechanisms for torture’s exposure. Within the organizations tasked with detaining and interrogating the U.S.’s detainees, there were interrogators and military lawyers who never accepted the rationalizations and legal vocabulary that authorized the use of “enhanced interrogation.” Even as “the avowedly democratic state reaches deep into its reserve of pure power, breaking loose from the usual restraints on its capacity to eliminate resistance through the infliction of physical pain” (Lazreg 2008:253), some of

the state's agents never follow its lead. Detention and interrogation occurs in organizational settings in which state agents compete for status and prestige (Rejali 2007). They also occur across several agencies; interrogators for one agency may not share the organizational values of another. And so, FBI interrogators, who have different organizational goals and a different chain of command than do military and CIA interrogators, documented and reported the abuses that occurred at Guantánamo. At Abu Ghraib, some participants in the photographed violence, particularly Sabrina Harman, claim to have photographed what they witnessed—and what they participated in—in order to document events about which they felt deeply conflicted (Gourevitch and Morris 2008b).

Ironically, even the legal and political practice of authorizing and enacting “enhanced interrogation” may produce mechanisms for the exposure of state violence. To neutralize the moral stigma of torture, officials publicly construe “enhanced interrogation” as instrumental and clinical. To sustain this portrayal, they point to the legal review that interrogation policies underwent and the safeguards, including the drafting of interrogation plans and the keeping of logs, incorporated into interrogation. Although these reviews, plans, and logs may not accurately map the actual implementation of torture (Rejali 2007), they produce textual traces of its use that can alter public discourse. Public responses to the release, in the spring of 2009, of legal reviews of the CIA's interrogation program bare out this claim. These legal reviews were, in fact, part and parcel of the enactment of “enhanced interrogation” as other than torture. As noted in the previous chapter, proponents of “enhanced interrogation” referred to the

fact of legal reviews—deliberation about the nature of the CIA’s program—as evidence of the program’s fit with democratic principles. At the same time, the documents provided grounds to challenge that image of torture, as they suggested that the CIA’s implementation of its interrogation program deviated from how the Agency described it to those who authorized it.

DISCOURSE AS INSTITUTIONAL AND INTERPRETIVE ACHIEVEMENT

Official accounts of the local reality of torture were a necessary component of the U.S.’s transition toward a critical discourse of torture. Such accounts, however, were not sufficient. American officials encountered detainee abuse and torture within a political environment, a “context of feeling and attitude” (Sontag 1977:17), that provided the interpretive frames in which American violence became meaningful. These frames were made up of political values, such as national security, the rule of law, and human rights, whose relative significance varied depending on the political project in which members of Congress perceived themselves as engaged.

Chapter 2 demonstrated that the war in Iraq, for instance, provided a human rights frame for understanding Abu Ghraib, since American politicians recognized the need to sustain domestic support and “Iraqi hearts and minds” for the invasion. Allegations of abuse and torture in the war on terror required far more work to elevate into pressing political problem. Indeed, the September 11, 2001 terrorist attacks and the threat of terror elevated national security to the pinnacle of political values. Within a frame defined by these events and this value, detainee abuse and torture, at least initially, appeared a

regrettable, but relatively insignificant footnote. Concern for the “balance” between national security and civil liberties was, moreover, insufficient to elevate instances of abuse into pressing political problems. Abused detainees were, typically, non-citizens; their treatment was largely irrelevant to political calculations about liberties and security. This is how American politicians framed the treatment of detainees held at Metropolitan Detention Center in New York. As Chapter 5 demonstrates, this is how, too, military officials and Congressional Republicans attempted to frame the FBI’s allegations of abuse at Guantánamo.

Eventually, though, respect for the rule of law and human rights became fused with national security; in this figuration, national security could only be secured by conforming to domestic and international standards of detention and interrogation. This fusion made an interpretive frame in which the abuse and torture of detainees, even within the war on terror context, weakened the nation by undermining the U.S.’s global image and alliances. This fusion occurred gradually. As I documented in Chapter 6, it was, in part, a product of events largely outside the control of members of Congress, such as the Supreme Court’s rulings against the Bush administration in *Rasul v. Bush* and *Hamdan v. Rumsfeld*. The Supreme Court’s decisions in these cases elevated the rule of law as a frame for detention and interrogation policies by granting detainees access to federal courts and applying Common Article 3 of the Geneva Conventions, which secures a baseline standard of humane treatment, to all detainees in U.S. custody. Following the Court’s decision in these cases, congressional hearings on detention and interrogation,

even under the Republican Congress in late-2005 and early-2006, included a diversity of positions on law and human rights.

The 2006 mid-term election subsequently won Democrats control over both Houses of Congress. This provided, as Chapter 6 demonstrates, Democrats with access to the material and symbolic resources—notably, the control of committee agendas—necessary to stage political performances that amplified human rights perspectives. Hearings included representatives of human rights organizations and former members of the administration or the Armed Forces critical of the administration’s policies.⁶⁰ These hearings also assumed, in their titles and agendas, a critical stance toward the Bush administration’s detention and interrogation policies.

I am hesitant to draw strong conclusions from these observations, as this study has not compared congressional responses to allegations of executive wrong doing across cases. On one hand, these observations could suggest that Democrats are more committed to human rights norms than are Republicans. At the same time, and more likely, this could suggest the strategic value of ignoring or fending off allegations of torture when they are levied against one’s own party and dwelling on them when they are levied against one’s political opponents. The suggestion, then, is that divided government may

⁶⁰ This is not to say that Congressional Democrats did not, like Congressional Republicans, engage in exclusionary, discursive practices. Indeed, because critics of the Bush administration’s interrogation program operated within the same cultural code as did supporters (Smith 1991a), they implicitly accepted that the Bush administration’s authorization of torture signaled an exceptional breach in democratic practices, institutions, and values. The sustenance of this claim requires the erasing—repression, even—of democratic histories of torture. By portraying the use of torture during the wars in Afghanistan and Iraq as a breach in democratic practices and institutions, critics neglect the extent to which torture and democracy can coincide. And so, even as Congressional Democrats opened the discursive stage of their hearings to human rights organizations and international lawyers—those who would press critical human rights claims against the Bush administration—a more radical claim—that “illiberal” practices, such as torture, sustain Western hegemony (Chomsky 2009; Lazreg 2008; Taussig 1984)—was excluded.

provide more incentives for congressional oversight than does single party rule (Ogul and Rockman 1990; Sugiyama and Perry 2006; Rosenthal 1981).

The fusion of human rights and the rule of law to national security was a significant, but precarious discursive achievement. During the early years of the Obama administration, critics of Obama's detention and interrogation policies mobilized the threat of terrorism and piggybacked on attempted or actual terrorist attacks in an effort to loosen the relation between the rule of law and national security (ABC News 2010; Thiessen 2010a). The maintenance of a political context averse to torture requires diligence. It must be discursively reinforced and political stages must be kept open to those who articulate human rights claims. It also appears to require some amount of good fortune—the absence or prevention of terrorist attacks that proponents of “enhanced interrogation” might mobilize to weaken the fusion of human rights, the rule of law, and national security.

THE PARTIALITY OF CONGRESS' CRITICAL DISCOURSE OF TORTURE

A recurring theme of this dissertation has been that torture enters political discourse in visual and textual accounts that are always selective and partial. I have endeavored to reflect on how particular accounts—the Abu Ghraib photographs, the quantifications of “detainee abuse” produced by the Department of Defense's investigations, the FBI's emails, and al-Qahtani's interrogation logs—operated within congressional discourse. I have also considered how destroyed visual representations—the CIA's videotaped

interrogations—became present in discourse, even as the tapes’ destruction prevented American officials from glimpsing the portion of reality that they recorded.

I would, in closing, further reflect on partiality. The reality of torture, as staged during American congressional hearings, is not equivalent to the “primary experience” (Riessman 1993) of torture. The primary experience of torture is “always infinitely more complex and more real than the scope of reality offered by even the most expansive of social constructions” (Pfohl 2008:650). This complexity can neither be fully retrieved nor directly accessed (Edwards et al. 1995).

To admit this, it is sometimes said, is to retreat to an apolitical relativism. Tempting a relativism of torture appears especially fraught. To deny victims and human rights activists direct access to reality is, it seems, to disarm them, to deny them the resource that distinguishes their claims from those who cynically and strategically deny torture (Cohen 2001). I would, however, interpret this observation differently. It does not signal a turning from reality, but the activation of the human pursuit of reality. It signals, too, the recognition that this pursuit is better served by “those who will look for which resources to bring in, which powers to convoke, maybe which society to rebuild” than “those who thump on their table and endlessly repeat that since [torture] has really taken place it cannot be rationally denied by anyone in his right mind” (Latour 1989:112).

In what ways are Congress’ discourses, including its critical discourse of torture, partial? What is beyond the reality of torture as it appears within congressional discourse? I raise these questions, near the close of this study, not to “debunk” or “ironize” (Hacking 1999) congressional discourse, but to extend the political and culture

project of acknowledgment, to open “critical space for the articulation of alternative and potentially emancipatory forms of knowledge and practice” (Jackson 2007a:397). The discursive intervention that the remaining pages of this dissertation offer is aimed, in other words, at both the deconstruction of American political discourse and toward “the design of ‘constructive’ discourse” that “might translate at some level into knowledge” (Phil Graham, Keenan, and Dowd 2004:216) of alternative, discursive encounters with violence.

The reality of torture, as we typically encounter it in congressional hearings, is represented from the standpoint of perpetrators and observers. The accounts that constitute this reality do not always replicate the legitimating logic of “enhanced interrogation.” One thinks of the FBI’s accounts of suffering at Guantánamo, which portray, in evocative terms, the vulnerability of suffering humans.⁶¹ And yet, these representations are all object and no subject; they are the exteriority of torture. Narrated or imaged from the perspective of bystanders and perpetrators—Americans—they are silent on the terms through which detainees experienced and continue to experience their suffering. In them, detainees also lack a personal and social identity. They are

individuals, caught up in a particular historical moment. Each has his or her own specific story. But we do not know their stories; we know nothing about them as

⁶¹ The photographs taken at Abu Ghraib prison are more ambiguous. Many of them include gloating American soldiers and dehumanized and emasculated Iraqi men. The photographs, further, were tangled in the violence that they record. Some photographs appear staged or partially staged for the camera, in so far as the Americans present in the pictures orient to the camera lens. Photographs were also used to repeat and intensify the humiliation and shame experienced by detainees. One detainee described this to Physicians for Human Rights: “You feel insulted, you feel humiliated. It became kind of a joke with the soldiers. They were showing the pictures and saying, ‘Which butt is yours?’” (Physicians for Human Rights 2008a:37). Still, the photographs betray the professional image of interrogation that the Bush administration and its supporters in Congress employed to legitimate the administration’s policies on detention and interrogation (Hooks and Mosher 2005).

individuals and [...] almost nothing about the circumstances that brought them here. We can only recognize [...] a common condition of being human. [...] In this vacuum of information, [they] become icons of cruelty, of injustice, of man's inhumanity to man. (French 2002:138–40)⁶²

I am aware that other viewers may experience their encounters with these representations differently. Of the photographs from Abu Ghraib, Stanley Cohen (2005) writes, “these are the only atrocity images that I have seen that I literally cannot bear to see again” (p. 27). Judith Butler (2009) provocatively proposes that it is the withholding of information about those in the photographs—names and faces (which are often, but not always, shrouded through digital manipulation)—that asserts the humanity of those photographed.

The face and name are not ours to know [...] To expose the victim further would be to reiterate the crime, so the task would seem to be a full documentation of the acts of the torturer, as well as a full documentation of those who exposed, disseminated, and published the scandal—but all this without intensifying the “exposure” of the victim, either through discursive or visual means. (p. 95)

I am sympathetic to Butler's argument. I have found myself anxious over the photographs from Abu Ghraib, because they are, at least latently, weapons—used, as they were, to perpetuate the humiliation of detainees at the prison. However, the “task” Butler outlines—the pursuit of “full documentation of the acts of the torturer, as well as a full documentation of those who exposed, disseminated, and published the scandal”—strikes me as one that could be pursued without effectively addressing what Butler (2003) elsewhere, and I think rightly, identifies as one of social and political conditions of

⁶² Such accounts are limited in another way: They do not provide an exhaustive vantage on American violence against detainees. Indeed, with the exception of the CIA's interrogation program, instances of abuse and torture for which we lack first-hand, direct accounts produced by the executive are largely excluded from American political discourse. For instance, the widespread abuse and torture of detainees that occurred across Iraq is rarely addressed in American political discourse (Human Rights Watch 2006); instead, Abu Ghraib stands in for detainee abuse in the country.

violence: the exclusion of the other from public discourse. Pursuing “full documentation,” we may continue to dodge the possible encounter between self and other, those whose security legitimated violence and those who suffered that violence.

The critical discourse of torture further avoids such an encounter by situating torture with a nationalistic frame. In the critical discourse, the harms of torture rebound off the body of detainees and onto the body politic of the U.S.: The Nation is weaker for having tortured; our international alliances break down; our global image erodes; we are diminished as a people. Torture, too, puts our troops at increased risk; it provides terrorists with propaganda and loses us the battle for the hearts and minds of the “Muslim world.”

I doubt neither the evidentiary value of official accounts of torture nor the rhetorical power of nationalistic framings. When the state’s very own soldiers and interrogators document abuse and torture and when those allegations are inscribed in official documents—investigations, logs, emails—it becomes difficult for the state to claim that its accusers are biased observers (Cohen 2001; Rejali 2007) or, as when “terrorists” testify, trained to fabricate allegations of torture (Philadelphoff-Puren 2008). Put simply, the state’s own officials have little to gain by alleging torture and are, generally, viewed as credible witnesses to such acts (Potter 1996).⁶³ A nationalistic framing, on the other hand, permits officials to criticize torture by drawing on well-established discursive frames, such as that of “supporting the troops” (Coy et al. 2008),

⁶³ This, in part, explains the potency of the activities of Wikileaks, particularly between 2009-11. The exposure of previously-classified, government documents related to the wars in Afghanistan and Iraq, as well as U.S. diplomatic cables, established an official “reality” of previously unknown or semi-known events.

and widely-shared beliefs about American exceptionalism. It also permits critics to distinguish an anti-torture position from a “pro-terrorist” position. John McCain put this distinction best when he addressed Congress on legislation that prohibited the inhumane treatment of detainees in U.S. custody, to a Defense Authorization Bill.

Let me close by noting that I hold no brief for the prisoners. [...] The enemy we fight has no respect for human life or human rights. They don't deserve our sympathy. But this isn't about who they are; this is about who we are. These are the values that distinguish us from our enemies. (McCain 2005)

A nationalistic framing of critiques of torture means, however, that survivors of American violence are no better represented by torture's critics than they are by apologists of enhanced interrogation. And so another task, that of opening discourse to the other remains. The challenge is not simply of apprehending the other's suffering from the other's perspective; I am not, in other words, only calling for *more* representations of torture. Rather, the challenge, I think, is also to encounter, and reckon with, the social fate of violence and suffering, the ways that torture resides both in the bodies of survivors and in the relations amidst survivors, their families, and their communities. The challenge is to retrieve the worlds that torture makes. It is to suspend, however briefly, the vocabularies that abstract violence from on-going experiences of it. The challenge is also to uncover the precarious, enigmatic relations that ethically attach the distant sufferers of violence to spectators of it (Boltanski 1999), particularly spectators on the side—nationally, if not ideologically—of the perpetrators of that violence. The denial of such a relation is a pre-condition of global violence (Butler 2003). And yet the act of violence is, itself, an enactment of that relation; torture has irrevocably tangled the U.S. in the fates of uncounted Iraqis, Afghanis, and others.

ENCOUNTERING TORTURE'S OTHER

The pursuit of these tasks is risky. On one hand, one runs the risk of speaking for the other, of imposing meaning on the other's experience (Van Wagenen 2004). This risk is heightened by torture. Therapists who work with torture survivors worry over "becoming dominant—someone to be feared or obeyed, whose interpretation of past events should trump the client's own view" (Grady 2001). Therapeutic domination "can take clients back to moments when someone else—a captor or torturer—was in control of them" (Grady 2001). The encounters that I have in mind, and that I have investigated in this dissertation, are distinct from that of therapy. They are discursive, rather than interpersonal, and are typically mediated by texts. This mediation provides distance. It may buffer the other from one's discursive blunders. This distance, however, may have the opposite effect. In the face of the other, one may feel compelled to negotiate meaning (Payne 2008); absent it, discursive carelessness and callousness may be unchecked.

On the other hand, one cannot predict the outcome of encounters with the other's suffering (Avery Gordon 2008). Recognizing the other, one may be altered. "To ask for recognition, or to offer it," Butler (2003) writes, "is to solicit a becoming, to instigate a transformation" (p. 44). Seeking reconciliation, one may be rebuked. "Remorseful confessions are felt to put undue burden on those who have already suffered—victims and survivors—in the name of individual and national healing" (Payne 2008:74). And, as the continuing "contentious coexistence" (Payne 2008) of anti-torture and pro-enhanced interrogation discourses suggests, one cannot assume that one's political and national

communities will share in such a project. Susan Sontag (2003) has made this observation most bluntly: “No ‘we’ should be taken for granted when the subject is looking at other people’s pain” (p. 7).

Facing these risks, one may be tempted to silence oneself (“I, who have not experienced torture, should not speak of it”) or the other (“Torture destroys language, is inexpressible”). But “one can take heart that every day actors do not remain silent in the face of these problems” (Rejali 2004). I think, for instance, of Physicians for Human Rights 2008 report, *Broken Laws, Broken Lives*, on the torture of detainees in U.S. custody. The report is an achievement of both medical and human rights discourse. It pursues the reality of torture by using the tools of medicine and psychology to secure the credibility of eleven former detainees to whom the organization spoke. Those skeptical of the country’s alleged enemies—alleged insurgents, alleged terrorists—to speak honestly of their treatment are met with a neutral, medicalized discourse that seeks “independent determinations of the veracity and credibility” of testimony (Physicians for Human Rights 2008a:16). The report mobilizes the authority typically afforded medical professionals to produce credible witnesses to torture. Each profile of the eleven former detainees includes a report based on a medical evaluation; each report includes assessments of the extent to which physical and psychological evidence supports a detainee’s testimony. “In each case, the clinicians, all of whom have extensive experience evaluating both torture survivors and/or individuals involved in litigation, considered the individual evaluated to be credible. There was no evidence of deliberate exaggeration in

any case” (p. 16). In this way, *Broken Laws, Broken Lives* secures a position in discourse for former detainees of the U.S. to speak to an American audience.

Broken Laws, Broken Lives, however, is not simply a medical report documenting and evaluating physical evidence of torture. It elicits narratives of torture and of the continuing impact of torture on the lives of the eleven detainees. These narratives often appear as fragments or are, more frequently, restated and summarized by the report’s authors. Though brief, sparse, and retold, they remain affecting. In them, torture appears not only as an encounter between an interrogator and his victim, but also as a force that displaces survivors. Adeel, who was captured in Pakistan in 2002 and held in Guantánamo until 2006,

reported having nightmares of Guantánamo that force him to wake up in the middle of the night, and not being able to go back to sleep because he ponders his misery. He reported starting to panic when somebody walks behind him and that he often feels people are looking at him, which makes him think that he is not normal. (p. 55)

Amir, an Iraqi man in his late twenties,

described feeling helpless and having a “dark” sense of the future. Moreover, he articulated a sense of wounded pride and stolen honor. He explained that the dissemination of photographs from Abu Ghraib on the Internet has exposed his humiliation to the world. He is plagued with an acute sense of scrutiny wherever he goes. (p. 45)

Neither Adeel nor Amir’s describe their displacement as only from the world. Adeel

suffers from blackouts and he has lost some of his memory capacity. He cannot remember the Koran very well, and he has no desire to read like he did before. (p. 55)

Amir

reported having trouble being naked in front of his wife. He described being scared by his wife’s sudden, even slight movements in sleep. Flashbacks of his

torture, especially the sexual aspects, would often intrude during sex with his wife. (p. 45)

Some of the detainees have left their homes. Kamal, an Iraqi man in his forties, became “very concerned that his wife and children were afraid of him. He began living with his sibling and only visited his family once each week because he believed his visits made them uncomfortable” (p. 19). Hafez, an Iraqi man in his fifties, did so “because my home reminds me of what happened” (p. 23). Yasser, an Iraqi man in his forties, did so for similar reasons. His experiences in U.S. custody “have made him feel very ‘uncomfortable’ in his home region”; he left Iraq “to avoid the frequent reminders of his imprisonment” (p. 31). Of the eleven detainees to whom the organization spoke, “all but one,” the reader learns, “feel utterly hopeless and isolated, and lack the ability to sleep well, work, or engage in normal social relationships with their families” (Physicians for Human Rights 2008a:9).

Reading these accounts, one is liable to come undone.⁶⁴ Here is the human world turning away from its inhabitants. Here is torture forcing itself into the relations that previously sustained eleven men. Even later, when the report is closed, one remains

⁶⁴ Sometime after writing this, I encountered Luc Boltanski’s (1999) *Distant Suffering: Morality, Media and Politics*. In it, Boltanski asserts that “in order to respect a rule of common humanity, the spectator of suffering cannot adopt the stance of a subject describing an object and speaking of what he has seen as a simple reporter.” Instead, the spectator must become double. There is the observer, who reports, with disinterest; there is then the introspector who gives an account of the effect of those observations on the spectator (p. 44–5). Such a discursive approach, I believe, recognizes the affective entanglement of the sufferer and the spectator. Those who work with torture survivors attest to such an entanglement. In a short video made in support of *Broken Laws, Broken Lives*, Leanh Nguyen (2008b), a contributor to the report, admitted having taken up chain smoking over the course of Physicians for Human Rights’ investigations. In an interview with the *New York Times*, Muriel Genot, a psychologist with the Center for Victims of Torture, reported, “Sometimes I feel almost physical pain when I listen to a detailed explanation of what happened [...] I feel it at the level of the skin, almost like my skin is being stretched or removed” (Grady 2001). These accounts have remained with me over the years. That they have suggests that torture has a social fate, initiating, as it sometimes does, a spiral of suffering and spectatorship.

vulnerable; one knows “somewhat too much; and from this knowledge, once one has been infected, there seems to be no recovering” (Coetzee 1982:21). Now and then, the narratives will themselves out of the forgotten. I have found myself grieving, the outer layer of the self trembling, for an other who I do not know and for losses that remain beyond the horizon of my experience.

I am unsure of what it means to accommodate knowledge of the other’s suffering—as an on-going experience, as interference—into a worldview. One could hold oneself accountable for the other, reducing such encounters to an accusation—“We are all torturers now” (Danner 2005)—that repeats the deficiencies of Congress’ critical discourse by turning the discursive gaze back on oneself. One could turn, instead, to despair, finding one’s life “a hopelessly inadequate response” to what one now knows (Berger 1991:22). But perhaps the encounter refers only to the encounter, the pause in the state’s discourse in which contact is made. And then the calling out, the beckoning, that remains obscure until one learns what it means to speak back.

References

- ABC News. 2010. "Dick Cheney: Waterboarding Should Have Been Option with Underwear Bomber - The Note." *ABC News*. Retrieved July 30, 2011 (<http://blogs.abcnews.com/thenote/2010/02/cheney-waterboarding-should-have-been-option-with-underwear-bomber.html>).
- Abrams, Joseph. 2009. "Despite Reports, Khalid Sheikh Mohammed Was Not Waterboarded 183 Times." *Fox News*. Retrieved June 23, 2011 (<http://www.foxnews.com/politics/2009/04/28/despite-reports-khalid-sheikh-mohammed-waterboarded-times/>).
- Ackerman, Spencer. 2009. "Ex-FBI Agent: Still No Evidence That Cheney's Torture Methods Work." *The Washington Independent*. Retrieved May 15, 2010 (<http://washingtonindependent.com/57273/ex-fbi-agent-still-no-evidence-that-cheney-s-torture-methods-work>).
- Akram, Susan Musarrat, and Kevin R. Johnson. 2002. "Race, Civil Rights, and Immigration Law After September 11, 2001: The Targeting of Arabs and Muslims." *New York University Annual Survey of American Law* 58(3):295–356.
- Alexander, Jeffrey C. 1988. "Culture and Political Crisis: 'Watergate' and Durkheimian Sociology." Pp. 187–224 in *Durkheimian Sociology: Cultural Studies*, edited by Jeffrey C. Alexander. New York: Cambridge University Press.
- . 2004. "Cultural Pragmatics: Social Performance between Ritual and Strategy." *Sociological Theory* 22(4):527–73.
- Alexander, Jeffrey C, Ron Eyerman, Bernhard Giesen, Neil J. Smelser, and Piotr Sztompka, eds. 2004. *Cultural Trauma and Collective Identity*. Berkeley, CA: University of California Press.
- Alexander, Jeffrey C. and Philip Smith. 1993. "The Discourse of American Civil Society: A New Proposal for Cultural Studies." *Theory and Society* 22(2):151–207.
- All Things Considered. 2009. "Obama's Churchill-Torture Claim Examined: NPR." *NPR*. Retrieved June 18, 2011 (<http://www.npr.org/templates/story/story.php?storyId=103728934>).
- Allen, Mike, and Bradley Graham. 2004. "Bush Lauds Rumsfeld for Doing 'Superb Job'." *The Washington Post*. Retrieved July 1, 2010 (<http://www.washingtonpost.com/wp-dyn/articles/A15946-2004May10.html>).
- Altheide, David L. 1987. "Reflections: Ethnographic Content Analysis." *Qualitative Sociology* 10(1):65–77.

- Amnesty International. 1975. *Report on Torture*. New York: Farrar, Straus and Giroux.
- Amnesty International. 2002a. "Afghanistan/USA: Prisoners Must Be Treated Humanely." Retrieved September 3, 2010 (<http://www.amnesty.org/en/library/asset/AMR51/004/2002/en/5d2c70b4-fb03-11dd-9fca-0d1f97c98a21/amr510042002en.pdf>).
- Amnesty International. 2002b. "Amnesty International's Concerns Regarding Post-September 11 Detentions in the USA." *Amnesty International*. Retrieved May 15, 2010 (<http://www.amnesty.org/en/library/asset/AMR51/044/2002/en/1823f2ff-d882-11dd-ad8c-f3d4445c118e/amr510442002en.html>).
- Amnesty International. 2004. "Pattern of Brutality and Cruelty — War Crimes at Abu Ghraib." Retrieved February 1, 2010 (<http://www.amnesty.org/en/library/asset/AMR51/077/2004/en/52b7f594-d5d9-11dd-bb24-1fb85fe8fa05/amr510772004en.html>).
- Amnesty International. 2009. "Facts and Figures - Amnesty International Report 2009." *Amnesty International*. Retrieved August 19, 2009 (<http://report2009.amnesty.org/en/facts-and-figures>).
- Andén-Papadopoulos, Kari. 2008. "The Abu Ghraib Torture Photographs." *Journalism* 9(1):5–30.
- Apel, Dora. 2005. "Torture Culture: Lynching Photographs and the Images of Abu Ghraib." *Art Journal* 64(2):88–100.
- Armbruster, Ben. 2011. "Gingrich Changes His Position: 'Waterboarding Is, By Every Technical Rule, Not Torture'." *ThinkProgress*. Retrieved December 17, 2011 (<http://thinkprogress.org/security/2011/11/29/377907/gingrich-waterboarding-not-torture/>).
- Asad, Talal. 1997. "On Torture, or Cruel, Inhuman, and Degrading Treatment." Pp. 285–308 in *Social Suffering*, edited by Arthur Kleinman, Veena Das, and Margaret Lock. Berkeley, CA: University of California Press.
- Associated Press. 2005a. "Bush: 'We Do Not Torture' Terror Suspects." *MSNBC.com*. Retrieved July 19, 2011 (http://www.msnbc.msn.com/id/9956644/ns/us_news-security/t/bush-we-do-not-torture-terror-suspects/).
- Associated Press. 2005b. "Rumsfeld Says No Alternatives Exist for Guantánamo Prison." *The New York Times* Retrieved September 4, 2010 (<http://www.nytimes.com/2005/06/15/politics/15gitmo.html>).

- Athey, Stephanie. 2007. "Torture: Alibi and Archetype in U.S. News." Pp. 135–160 in *Culture, trauma and conflict : cultural studies perspectives on war*, edited by Nico Carpentier. Newcastle, UK: Cambridge Scholars Publishing.
- BBC News. 2002. "Afghan Captives Start Cuba Detention." *BBC* Retrieved July 21, 2010 (<http://news.bbc.co.uk/2/hi/americas/1754444.stm>).
- BBC News. 2005. "Us Does Not Torture, Bush Insists." *BBC* Retrieved July 19, 2011 (<http://news.bbc.co.uk/2/hi/americas/4415132.stm>).
- Babb, Sarah. 1996. "'A True American System of Finance': Frame Resonance in the U.S. Labor Movement, 1866 to 1886." *American Sociological Review* 61(6):1033–1052.
- Babb, Sarah. 2009. *Behind the Development Banks: Washington Politics, World Poverty, and the Wealth of Nations*. Chicago, IL: University of Chicago Press.
- Baker, Luke. 2009. "Lawyer Says Guantanamo Abuse Worse Since Obama." *Reuters*. Retrieved May 8, 2010 (<http://uk.reuters.com/article/idUKTRE51O3TB20090226>).
- Barthes, Roland. 1981. *Camera Lucida: Reflections on Photography*. New York: Hill and Wang.
- Basoglu, Metin. 1992. *Torture and Its Consequences: Current Treatment Approaches*. New York: Cambridge University Press.
- Baudrillard, Jean. 2001. *Jean Baudrillard: Selected Writings*. Oxford: Polity Press.
- Bauman, Zygmunt. 2000. *Modernity and the Holocaust*. Ithaca, NY: Cornell University Press.
- Baumgartner, Frank R., and Bryan D. Jones. 1993. *Agendas and Instability in American Politics*. Chicago, IL: University of Chicago Press.
- Beccaria, Cesare. 1986. *On Crimes and Punishments*. Indianapolis, IN: Hackett Publishing Company.
- Becker, Howard S. 1995. "Visual Sociology, Documentary Photography, and Photojournalism: It's (almost) All a Matter of Context." *Visual Sociology* 10(1):5–14.
- Benford, Robert D., and David A. Snow. 2000. "Framing Processes and Social Movements: An Overview and Assessment." *Annual Review of Sociology* 26(1):611–39.

- Benjamin, Mark. 2007. "Did Chertoff lie to Congress about Guantánamo?" *Salon.com*. Retrieved May 15, 2010 (<http://www.salon.com/news/feature/2007/08/28/chertoff>).
- Bennett, W. L, R. G Lawrence, and S. Livingston. 2006. "None Dare Call It Torture: Indexing and the Limits of Press Independence in the Abu Ghraib Scandal." *Journal of Communication* 56(3):467–485.
- Benoit, William. 1995. *Accounts, Excuses, and Apologies: a Theory of Image Restoration Strategies*. Albany, NY: State University of New York Press.
- Beresford, Annette D. 2004. "Homeland Security as an American Ideology: Implications for Us Policy and Action." *Journal of Homeland Security and Emergency Management* 1(3):301.
- Berger, John. 1991. *About Looking*. New York: Vintage International.
- Best, Joel. 1990. *Threatened Children: Rhetoric and Concern about Child-Victims*. Chicago, IL: University of Chicago Press.
- Best, Joel. 1993. "But Seriously Folks: The Limitations of the Strict Constructionist Interpretation of Social Problems." Pp. 129–147 in *Reconsidering Social Constructionism: Debates in Social Problems Theory*, edited by James A. Holstein and Gale Miller.
- Best, Joel, ed. 1995. *Images of Issues: Typifying Contemporary Social Problems*. New York: Aldine De Gruyter.
- Best, Joel. 2008. *Social Problems*. New York: W.W. Norton & Co.
- Biddle, Stephen. 2006. "Seeing Baghdad, Thinking Saigon." *Foreign Affairs* 85(2):2–14.
- Bingaman, Jeff. 2003. "Department of Defense Appropriations Act, 2004." Retrieved July 21, 2010 (<http://www.gpo.gov/fdsys/pkg/CREC-2003-07-16/html/CREC-2003-07-16-pt1-PgS9448.htm>).
- Blumer, Herbert. 1971. "Social Problems as Collective Behavior." *Social Problems* 18(3):298–306.
- Bogard, Cynthia J. 2003. "Explaining Social Problems: Addressing the Whys of Social Constructionism." Pp. 209–235 in *Challenges and Choices: Constructionist Perspectives on Social Problems*, edited by James A. Holstein and Gale Miller. Hawthorne, N.Y.: Aldine de Gruyter.
- Boltanski, Luc. 1999. *Distant Suffering: Morality, Media, and Politics*. New York: Cambridge University Press.

- Borger, Julian. 2002. "Congress Delegates Scorn X-Ray Dears." *The Guardian*. Retrieved July 21, 2010 (<http://www.guardian.co.uk/world/2002/jan/26/usa.afghanistan>).
- Bourdieu, Pierre. 1998. *Practical Reason: On the Theory of Action*. Stanford, CA: Stanford University Press.
- Boynton, G. R. 1991. "When Senators and Publics Meet at the Environmental Protection Subcommittee." *Discourse & Society* 2(2):131–155.
- Bradbury, Steven G. 2005. "Memorandum for John A. Rizzo." Retrieved June 23, 2011 (<http://www.fas.org/irp/agency/doj/olc/techniques.pdf>).
- Bradley, Curtis A., Tom. J. Farer, and David A. Martin. 2007. "The Military Commissions Act, Habeas Corpus, and the Geneva Conventions." *The American Journal of International Law* 101(2):322–344.
- Brown, Michelle. 2005. "'Setting the Conditions' for Abu Ghraib: The Prison Nation Abroad." *American Quarterly* 57(3):973–997.
- Brown, Michelle. 2007. "The Abu Ghraib Torture and Prisoner Abuse Scandal." P. 305–23 in *Crimes and Trials of the Century: Volume 2, From Pine Ridge to Abu Ghraib*, edited by S. Chermak and F.Y. Bailey. Westport, CT: Praeger Publishers.
- Brummans, Boris H. J. M. 2007. "Death by Document: Tracing the Agency of a Text." *Qualitative Inquiry* 13(5):711–727.
- Buacchi, Vittorio, and Jean Maria Arrigo. 2006. "Torture, Terrorism and the State: A Refutation of the Ticking-Bomb Argument." *Journal of Applied Philosophy* 23(3):355–373.
- Burkeman, Oliver. 2009. "Obama Administration to End Use of Term 'War on Terror'." *The Guardian*. Retrieved December 6, 2011 (<http://www.guardian.co.uk/world/2009/mar/25/obama-war-terror-overseas-contingency-operations>).
- Burton, Frank, and Pat Carlen. 1979. *Official Discourse: On Discourse Analysis, Government Publications, Ideology and the State*. Boston, MA: Routledge & Kegan Paul.
- Bush, George W. 2004. "Interview With Al-Ahram International." *The American Presidency Project*. Retrieved March 20, 2011 (<http://www.presidency.ucsb.edu/ws/index.php?pid=63380#axzz1HAH1L2tI>).

- Bush, George W. 2006. "President Bush's Speech on Terrorism." *The New York Times*, September 6 Retrieved December 13, 2011 (http://www.nytimes.com/2006/09/06/washington/06bush_transcript.html).
- Butler, Judith. 2003. *Precarious Life: The Powers of Mourning and Violence*. New York: Verso.
- Butler, Judith. 2009. *Frames of War: When is Life Grievable?* New York: Verso.
- CBS News. 2011. "Cbs News/NJ Debate Transcript, Part 1." *CBS News*. Retrieved December 17, 2011 (http://www.cbsnews.com/8301-505103_162-57323734/cbs-news-nj-debate-transcript-part-1/?pageNum=11).
- CNN.com. 2001. "U.S. to Hold Detainees at Guantanamo Bay." *CNN.com*. Retrieved July 21, 2011 (<http://archives.cnn.com/2001/US/12/27/ret.holding.detainees/index.html>).
- CNN.com. 2007. "Part II: CNN/YouTube Republican Presidential Debate Transcript." Retrieved May 8, 2010 (<http://www.cnn.com/2007/POLITICS/11/28/debate.transcript.part2/>).
- Callon, Michel. 1986. "Some Elements of a Sociology of Translation: Domestication of the Scallops and the Fisherman of St Brieuc Bay." Pp. 196–233 in *Power, Action, and Belief: A New Sociology of Knowledge?*, edited by John Law. Boston, MA: Routledge & Kegan Paul.
- Cambanis, Thanassis. 2004. "Iraqi Detentions Fuel Anti-US sentiment." *The Boston Globe*. Retrieved October 4, 2009 (http://www.boston.com/news/world/middleeast/articles/2004/03/28/iraqi_detentions_fuel_anti_us_sentiment/).
- Casimir, Leslie. 2003. "Jailers Abused Muslims: Report." *Daily News*. Retrieved March 14, 2011 (http://articles.nydailynews.com/2003-12-19/news/18248878_1_inspector-general-glenn-fine-verbal-abuse-federal-correctional-officers).
- Caton, Steven C. 2006. "Coetzee, Agamben, and the Passion of Abu Ghraib." *American Anthropologist* 108(1):114–123.
- Cebdriwucz, Leo. 2008. "Portugal's Offer to Help the US Close Guantánamo." *Time* Retrieved August 25, 2010 (<http://www.time.com/time/world/article/0,8599,1867163,00.html>).
- Cerulo, Karen A. 2009. "Nonhumans in Social Interaction." *Annual Review of Sociology* 35(1):531–52.

- Chang, Gordon C., and Hugh B. Mehan. 2008. "Why We Must Attack Iraq: Bush's Reasoning Practices and Argumentation System." *Discourse Society* 19(4):453–482.
- Chomsky, Noam. 2009. "Unexceptional Americans." *Tom Dispatch*. Retrieved December 17, 2011 (<http://www.tomdispatch.com/post/175073>).
- Coakley, Sarah. 2007. *Pain and Its Transformations: The Interface of Biology and Culture*. Cambridge, MA: Harvard University Press.
- Coetzee, J.M. 1982. *Waiting for the Barbarians*. New York: Penguin Books.
- Cohen, Joseph. 1989. "About Steaks Liking to be Eaten: The Conflicting Views of Symbolic Interactions and Talcott Parsons Concerning the Nature of Relations Between Persons and Nonhuman Objects." *Symbolic Interaction* 12(2):191–213.
- Cohen, Stanley. 1980. *Folk Devils and Moral Panic: The Creation of the Mods and Rockers*. Oxford: Martin Robertson.
- Cohen, Stanley. 2001. *States of Denial: Knowing about Atrocities and Suffering*. Malden, MA: Blackwell Publishers.
- Cohen, Stanley. 2005. "Post-Moral Torture: From Guantanamo to Abu Ghraib." *Index on Censorship* 34(1):24–30.
- Collins, Randall. 1974. "Three Faces of Cruelty: Towards a Comparative Sociology of Violence." *Theory and Society* 1(4):415–440.
- Commission on Presidential Debates. 2009a. "October 8, 2004 Debate Transcript." Retrieved May 8, 2010 (<http://www.debates.org/index.php?page=october-8-2004-debate-transcript>).
- Commission on Presidential Debates. 2009b. "September 26, 2008 Debate Transcript." Retrieved May 8, 2010 (<http://www.debates.org/index.php?page=2008-debate-transcript>).
- Conroy, John. 2000. *Unspeakable Acts, Ordinary People: The Dynamics of Torture*. New York: Knopf.
- Cooren, François. 2004. "Textual Agency: How Texts Do Things in Organizational Settings." *Organization* 11(3):373–93.
- Cowan, Alison Leigh. 2001. "A Nation Challenged: Civil Rights; Detainees' Lawyers Complain of Unfair Treatment." *The New York Times*. Retrieved May 23, 2010 (<http://www.nytimes.com/2001/10/21/us/a-nation-challenged-civil-rights-detainees-lawyers-complain-of-unfair-treatment.html?pagewanted=1>).

- Coy, Patrick G., Lynne M. Woehrle, and Gregory M. Maney. 2008. "Discursive Legacies: The U.S. Peace Movement and 'Support the Troops'." *Social Problems* 55(2):161–189.
- Crelinsten, Ronald D. 2003. "The World of Torture: A Constructed Reality." *Theoretical Criminology* 7(3):293–318.
- Crelinsten, Ronald D. 2005. "How to Make a Torturer." *Index on Censorship* 34(1):72–77.
- Danner, Mark. 2004. *Torture and Truth: America, Abu Ghraib, and the War on Terror*. New York: New York Review Books.
- . 2005. "We Are All Torturers Now." *The New York Times*. Retrieved August 5, 2011 (<http://www.nytimes.com/2005/01/06/opinion/06danner.html>).
- . 2008. "Frozen Scandal." *The New York Review of Books*. Retrieved June 20, 2011 (<http://www.nybooks.com/articles/archives/2008/dec/04/frozen-scandal/>).
- . 2009. *Stripping Bare the Body: Politics, Violence, War*. New York: Nation Books.
- . "Lanan Reading & Conversations: Don DeLillo with Mark Danner." *Lanan Foundation*. Retrieved July 11, 2011 (<http://www.lannan.org/lf/rc/event/don-delillo/>).
- Davis, Darren W., and Brian D. Silver. 2004. "Civil Liberties vs. Security: Public Opinion in the Context of the Terrorist Attacks on America." *American Journal of Political Science* 48(1):28–46.
- Davis, Matthew. 2005. "Bush Battles for US Hearts and Minds." *BBC News*. Retrieved July 5, 2010 (<http://news.bbc.co.uk/2/hi/americas/4505506.stm>).
- DeLillo, Don. 2010. *Point Omega*. New York: Simon and Schuster.
- Domhoff, G. William. 1970. *The Higher Circles: The Governing Class*. New York: Vintage Books.
- Edelman, Murray. 1988. *Constructing the Political Spectacle*. Chicago, IL: University of Chicago Press.
- Edwards, Derek, Malcolm Ashmore, and Jonathan Potter. 1995. "Death and Furniture: The Rhetoric, Politics and Theology of Bottom Line Arguments Against Relativism." *History of the Human Sciences* 8(2):25–49.

- Edwards III, George C., and B. Dan Wood. 1999. "Who Influences Whom? The President, Congress, and the Media." *The American Political Science Review* 93(2):327–344.
- Eggen, Dan. 2003a. "Audio of Attorney-Detainee Interviews Called Illegal." *The Washington Post*, A02.
- . 2003b. "Tapes Show Abuse of 9/11 Detainees; Justice Department Examines Videos Prison Officials Said Were Destroyed." *The Washington Post*. Retrieved March 14, 2011 (<http://www.washingtonpost.com/ac2/wp-dyn/A11865-2003Dec18?language=printer>).
- Eggen, Dan, and R. Jeffrey Smith. 2004. "FBI Agents Allege Abuse of Detainees at Guantanamo Bay." *The Washington Post*. Retrieved August 26, 2010 (<http://www.washingtonpost.com/wp-dyn/articles/A14936-2004Dec20.html>).
- Eggen, Dan, and Joby Warrick. 2007. "CIA Destroyed Videos Showing Interrogations." *The Washington Post*. Retrieved May 29, 2011 (<http://www.washingtonpost.com/wp-dyn/content/article/2007/12/06/AR2007120601828.html>).
- Einolf, Christopher J. 2007. "The Fall and Rise of Torture: A Comparative and Historical Analysis." *Sociological Theory* 25(2):101–121.
- Eisenman, Stephen. 2007. *The Abu Ghraib Effect*. London: Reaktion.
- Esala, Jennifer J., and Jared Del Rosso. 2011. "Emergent Objects, Developing Practices: Human-Nonhuman Interactions in a Reiki Training." *Symbolic Interaction* 34(4):490–513.
- Esposito, Richard. 2008. "CIA Chief: We Waterboarded." *ABC News*. Retrieved May 30, 2011 (<http://abcnews.go.com/Blotter/TheLaw/story?id=4244423&page=1>).
- Esposito, Richard, and Brian Ross. 2007. "Coming in From the Cold: CIA Spy Calls Waterboarding Necessary But Torture - ABC News." *ABC News*. Retrieved June 14, 2011 (<http://abcnews.go.com/Blotter/story?id=3978231&page=1>).
- Fainaru, Steve. 2002. "Justice Department to Examine Treatment of Detainees at 2 Jails." *The Washington Post* Retrieved September 2, 2009 (<http://www.highbeam.com/doc/1P2-350074.html>).
- Fanon, Frantz. 1963. *The Wretched of the Earth*. New York: Grove Press.
- Federal Bureau of Investigation. 2012a. "9/11 Investigation (PENTBOMB)." Retrieved May 15, 2010 (<http://www.fbi.gov/pressrel/penttbom/penttbomb.htm>).

- Federal Bureau of Investigation. 2012b. "FBI Intelligence Timeline." Retrieved March 7, 2011 (<http://www.fbi.gov/about-us/intelligence/timeline>).
- Fein, Bruce. 2001. "Abrogating Terrorism's Paradise." *The Washington Times*. Retrieved August 28, 2010 (<http://www.washingtontimes.com/news/2001/oct/2/20011002-025736-6454r/>).
- Finn, Peter. 2008. "Guantanamo Closure Called Obama Priority." *The Washington Post*. Retrieved August 2, 2010 (<http://www.washingtonpost.com/wp-dyn/content/article/2008/11/11/AR2008111102865.html>).
- Fiske, Susan T., Lasana T. Harris, and Amy J. C. Cuddy. 2004. "Why Ordinary People Torture Enemy Prisoners." *Science* 306(5701):1482–1483.
- Forrest, Duncan, Bernard Knight, and Morris Tidball-Binz. 1996. "The Documentation of Torture." P. 167–86 in *A Glimpse of Hell: Reports on Torture Worldwide*, edited by D. Forrest. New York: New York University Press.
- Foucault, Michel. 1995. *Discipline and Punish: The Birth of the Prison*. New York: Vintage Books.
- . 2003. *Society Must Be Defended: Lectures at the Collège De France, 1975-76*. New York: Picador.
- Fox News. 2004. "Bush Apologizes for Iraqi Prisoner Abuse." *FoxNews.com*. Retrieved February 7, 2010 (<http://www.foxnews.com/story/0,2933,119156,00.html>).
- Freeze, Colin. 2003. "Detainees Bloodied, Report Finds; Patriotism Fuelled Repeated Attacks by Prison Guards, Document Reveals." *The Globe and Mail*, A22. Retrieved March 14, 2011.
- French, Lindsay. 2002. "Exhibiting Terror." Pp. 131–154 in *Truth Claims*, edited by Mark Philip Bradley and Patrice Petro. Camden, NJ: Rutgers University Press.
- Gamson, William A., David Croteau, William Hoynes, and Theodore Sasson. 1992. "Media Images and the Social Construction of Reality." *Annual Review of Sociology* 18:373–393.
- Gibson, J.T., and M. Haritos-Fatouros. 1986. "The Education of a Torturer." *Psychology Today* 20(11):50–58.
- Giddens, Anthony. 1987. *A Contemporary Critique of Historical Materialism: The Nation-State and Violence*. University of California Press.
- Glaberson, William. 2001. "Detainees' Accounts are at Odds with Official Reports of an Orderly Investigation." *The New York Times*. Retrieved May 23, 2010.

(<http://www.nytimes.com/2001/09/29/us/nation-challenged-arrests-detainees-accounts-are-odds-with-official-reports.html?pagewanted=1>).

- Goffman, Erving. 1959. *The Presentation of Self in Everyday Life*. Garden City, NY: Doubleday.
- Goldfeld, Anne E., Richard F. Mollica, Barbara H. Pesavento, and Stephen V. Faraone. 1988. "The Physical and Psychological Sequelae of Torture: Symptomatology and Diagnosis." *JAMA* 259(18):2725–2729.
- Goode, Erich, and Nachman Ben-Yehuda. 1994. "Moral Panics: Culture, Politics, and Social Construction." *Annual Review of Sociology* 20:149–171.
- Goodman, Ryan, and Derek Jinks. 2004. "How to Influence States: Socialization and International Human Rights Law." *Duke Law Journal* 54(3):621–703.
- Gordon, Avery F. 2006. "Abu Ghraib: Imprisonment and the War on Terror." *Race & Class* 48(1):42–59.
- . 2008. *Ghostly Matters: Haunting and the Sociological Imagination*. Minneapolis, MN: University of Minnesota Press.
- Gorst-Unsworth, C, and E Goldenberg. 1998. "Psychological Sequelae of Torture and Organised Violence Suffered by Refugees from Iraq. Trauma-Related Factors Compared with Social Factors in Exile." *The British Journal of Psychiatry* 172(1):90–4.
- Gourevitch, Philip, and Errol Morris. 2008a. "Exposure." *The New Yorker*. Retrieved April 6, 2010 (http://www.newyorker.com/reporting/2008/03/24/080324fa_fact_gourevitch).
- . 2008b. *Standard Operating Procedure*. New York: Penguin Press.
- Grady, Denise. 2001. "Tugging at Threads to Unspool Stories of Torture." *The New York Times* Retrieved July 31, 2011 (<http://www.nytimes.com/2011/05/03/health/03torture.html>).
- Graham, Phil, Thomas Keenan, and Anne-Maree Dowd. 2004. "A Call to Arms at the End of History: A Discourse–Historical Analysis of George W. Bush's Declaration of War on Terror." *Discourse & Society* 15(2-3):199–221.
- Greenberg, Karen J., and Joshua L. Dratel, eds. 2005. *The Torture Papers: The Road to Abu Ghraib*. New York: Cambridge University Press.

- Greenhouse, Linda. 2006. "Justices, 5-3, Broadly Reject Bush Plan to Try Detainees." *The New York Times*, June 30 Retrieved January 6, 2012 (<http://www.nytimes.com/2006/06/30/washington/30hamdan.html>).
- The Guardian. 2005. "Guantánamo Detainees are 'Bad People', Says Cheney." *The Guardian*. Retrieved September 4, 2010 (<http://www.guardian.co.uk/world/2005/jun/13/afghanistan.guantanamo>).
- Gusfield, Joseph R. 1989. "Constructing the Ownership of Social Problems: Fun and Profit in the Welfare State." *Social Problems* 36(5):431–441.
- Hacking, Ian. 1999. *The Social Construction of What?* Cambridge, MA: Harvard University Press.
- Hajjar, Lisa. 2009. "Does Torture Work? A Sociolegal Assessment of the Practice in Historical and Global Perspective." *Annual Review of Law and Social Science* 5(1):311–345.
- Hakim, Danny, and Susan Sachs. 2002. "Judge Rules The Hearing For a Detainee Must Be Open." *The New York Times* Retrieved May 23, 2010 (<http://www.nytimes.com/2002/04/04/us/judge-rules-the-hearing-for-a-detainee-must-be-open.html>).
- Hall, Stuart. 1978. *Policing the Crisis: Mugging, the State, and Law and Order*. New York: Holmes and Meier.
- Halperin, Mark. 2010. "Transcript: Petraeus on 'Meet the Press' February 21, 2010." *Time.com*. Retrieved May 23, 2010 (<http://thepage.time.com/transcript-petraeus-on-meet-the-press-february-21-2010/>).
- Haney, Craig, Curtis Banks, and Philip Zimbardo. 1973. "Interpersonal Dynamics in a Simulated Prison." *International Journal of Criminology and Penology* 1(1):69–97.
- Haraway, Donna. 1988. "Situated Knowledges: The Science Question in Feminism and the Privilege of Partial Perspective." *Feminist Studies* 14(3):575–599.
- Harper, Scott. 2011. "The CIA's Secret Prison in Somalia." *Harper's Magazine*. Retrieved July 26, 2011 (<http://harpers.org/archive/2011/07/hbc-90008152>).
- Heymann, Philip B. 2002. "Civil Liberties and Human Rights in the Aftermath of September 11." *Human Rights: Journal of the Section of Individual Rights & Responsibilities* 29(1):18–19, 25.

- Hilgartner, Stephen, and Charles L. Bosk. 1988. "The Rise and Fall of Social Problems: A Public Arenas Model." *American Journal of Sociology* 94(1):53–78.
- Holstein, James A., and Gale Miller. 1993. "Social Constructionism and Social Problems Work." P. 151–72 in *Reconsidering Social Constructionism: Debates in Social Problems Theory*, edited by James A. Holstein and Gale Miller. New York: Aldine de Gruyter.
- Holstein, James, and Gale M. Miller, eds. 2003. *Challenges and Choices: Constructionist Perspectives on Social Problems*. Hawthorne, NY: Aldine de Gruyter.
- Holstein, James A., and Jaber F. Gubrium. 2003. "A Constructionist Analytics for Social Problems." Pp. 187–208 in *Challenges and Choices: Constructionist Perspectives on Social Problems*, edited by James A. Holstein and Gale Miller. Hawthorne N.Y.: Aldine de Gruyter.
- Hooks, Gregory, and Clayton Mosher. 2005. "Outrages against Personal Dignity: Rationalizing Abuse and Torture in the War on Terror." *Social Forces* 83(4):1627–45.
- Hsieh, Hsiu-Fang, and Sarah E. Shannon. 2005. "Three Approaches to Qualitative Content Analysis." *Qualitative Health Research* 15(9):1277–1288.
- Human Rights First. 2007. "Soldiers Have Imitated What They See on TV." *Human Rights First*. Retrieved July 17, 2011 (<http://www.humanrightsfirst.org/2007/11/10/soldiers-have-imitated-what-they-see-on-tv/>).
- Human Rights Watch. 2002. "Presumption of Guilt: Human Rights Abuses of Post-September 11 Detainees." *Human Rights Watch*. Retrieved May 15, 2010 (<http://www.hrw.org/reports/2002/us911/>).
- . 2006. "No Blood, No Foul." *Human Rights Watch*. Retrieved December 21, 2011 (<http://www.hrw.org/reports/2006/07/22/no-blood-no-foul>).
- Ibarra, Peter R. 2008. "Strict and Contextual Constructionism in the Sociology of Deviance and Social Problems." Pp. 355–369 in *Handbook of Constructionist Research*, edited by James A. Holstein and Jaber F. Gubrium. New York: Guilford Press.
- Ibarra, Peter R., and John I. Kitsuse. 1993. "Vernacular Constituents of Moral Discourse: An Interactionist Proposal for the Study of Social Problems." Pp. 25–58 in *Reconsidering Social Constructionism: Debates in Social Problems Theory*, edited by James A. Holstein and Gale Miller. New York: Aldine de Gruyter.

- International Committee of the Red Cross. 2004. "Report of the International Committee of the Red Cross (ICRC) on the Treatment by the Coalition Forces of Prisoners of War and Other Protected Persons by the Geneva Conventions in Iraq during Arrest, Internment and Interrogation." Retrieved September 21, 2009 (http://www.globalsecurity.org/military/library/report/2004/icrc_report_iraq_feb2004.htm).
- . 2007. *ICRC Report on the Treatment of Fourteen "High Value Detainees" in CIA Custody*. Washington, DC: International Committee of the Red Cross.
- Jackall, Robert. 1989. *Moral Mazes: The World of Corporate Managers*. New York: Oxford University Press.
- Jackson, Richard. 2007a. "Constructing Enemies: 'Islamic Terrorism' in Political and Academic Discourse." *Government and Opposition* 42(3):394–426.
- . 2007b. "Language, Policy and the Construction of a Torture Culture in the War on Terrorism." *Review of International Studies* 33(03):353–71.
- Jacobson, Gary C. 2009. "The 2008 Presidential and Congressional Elections: Anti-Bush Referendum and Prospects for the Democratic Majority." *Political Science Quarterly* 124(1):1–30.
- James, Randy. 2009. "Bernard Kerik." *Time* Retrieved June 8, 2011 (<http://www.time.com/time/nation/article/0,8599,1935825,00.html>).
- Johnson, John M. 1995. "Horror stories and the construction of child abuse." Pp. 17–31 in *Images of Issues: Typifying Contemporary Social Problems.*, edited by Joel Best. Hawthorne, NY: Aldine de Gruyter.
- Johnson, Kevin R. 1996. "'Aliens' and the U.S. Immigration Laws: The Social and Legal Construction of Nonpersons." *The University of Miami Inter-American Law Review* 28(2):263–292.
- Jones, Bryan D., and Frank R. Baumgartner. 2005. *The Politics of Attention: How Government Prioritizes Problems*. Chicago: University of Chicago Press.
- Kagan, Robert. 2004. "America's Crisis of Legitimacy." *Foreign Affairs* 83(2):65–87.
- Kamen, Al, Lyndsey Layton, Elizabeth Williamson, and Zachary A. Goldfarb. 2006. "Senate Committee Staff Directors Set Session Agenda." *The Washington Post*. Retrieved June 14, 2011 (<http://www.washingtonpost.com/wp-dyn/content/article/2006/12/25/AR2006122500581.html>).

- Kaplan, Amy. 2003. "Homeland Insecurities: Some Reflections on Language and Space." *Radical History Review* 85(1):82–93.
- Kaufman, Marc. 2005. "Cheney: U.S. Not Aiming To Close Guantanamo." *The Washington Post* Retrieved September 4, 2010 (<http://www.washingtonpost.com/wp-dyn/content/article/2005/06/12/AR2005061201265.html>).
- Kitcher, Philip. 2001. *Science, Truth, and Democracy*. New York: Oxford University Press.
- Kitsuse, John I., and Malcolm Spector. 1973. "Toward a Sociology of Social Problems: Social Conditions, Value-Judgments, and Social Problems." *Social Problems* 20(4):407–419.
- Kucinich, Dennis. 2002. "A Prayer for America." Retrieved July 21, 2010 (<http://www.commondreams.org/views02/0226-09.htm>).
- Langbein, John. 1977. *Torture and the Law of Proof: Europe and England in the Ancien Régime*. Chicago, IL: University of Chicago Press.
- Latour, Bruno. 1987. *Science in Action*. Cambridge, MA: Harvard University Press.
- . 1989. "Clothing the Naked Truth." Pp. 101–126 in *Dismantling Truth: Reality in the Post-Modern World*, edited by Hilary Lawson and Lisa Appignanesi. London: Weidenfeld and Nicolson.
- . 2005. *Reassembling the Social*. New York: Oxford University Press.
- Latour, Bruno, and Steve Woolgar. 1986. *Laboratory Life: The Construction of Scientific Facts*. Princeton, NJ: Princeton University Press.
- Law, John. 2004. *After Method: Mess in Social Science Research*. New York: Routledge.
- Lazreg, Marnia. 2008. *Torture and the Twilight of Empire: From Algiers to Baghdad*. Princeton, NJ: Princeton University Press.
- Lea, Henry C. 1866. *Superstition and Force: Essays on the Wager of Law, the Wager of Battle, the Ordeal, Torture*. Philadelphia, PA: Collins Printing House.
- . 1892. *Superstition and Force: Essays on the Wager of Law, the Wager of Battle, the Ordeal, Torture*. Philadelphia, PA: Collins Printing House.
- Leahy, Patrick. 2004. "Congressional Record, Volume 150 Issue 103 (Thursday, July 22, 2004)." *Congressional Record*. Retrieved May 29, 2011

(<http://www.gpo.gov/fdsys/pkg/CREC-2004-07-22/html/CREC-2004-07-22-pt2-PgS8653-2.htm>).

Lecky, William Edward Hartpole. 1866. *History of the Rise and Influence of the Spirit of Rationalism in Europe*. New York: D. Appleton and Company.

Levin, Carl. 2006. "Floor Speech of Senator Carl Levin on the Nomination of Alice Fisher for Assistant Attorney General, Criminal Division, Department of Justice." Retrieved May 16, 2010 (<http://levin.senate.gov/newsroom/release.cfm?id=263383>).

Lewis, Neil A. 2004a. "Broad Use of Harsh Tactics Is Described at Cuba Base." *The New York Times*, October 17 Retrieved August 3, 2010 (<http://www.nytimes.com/2004/10/17/politics/17gitmo.html>).

———. 2004b. "Red Cross Finds Detainee Abuse in Guantánamo." *The New York Times*, November 30 Retrieved August 3, 2010 (<http://www.nytimes.com/2004/11/30/politics/30gitmo.html>).

Lewis, Neil A., and David Johnston. 2004. "New FBI Files Describe Abuse Of Iraq Inmates." *The New York Times* Retrieved July 7, 2010 (<http://www.nytimes.com/2004/12/21/politics/21abuse.html>).

Lewison, Jed. 2009. "O'Reilly uses Nazi propaganda to defend torture, attack Obama." *Daily Kos TV*. Retrieved June 23, 2011 (<http://www.dailykos.com/tv/w/001312/>).

Lichtblau, Eric. 2003. "Ashcroft Defends Detentions as Immigrants Recount Toll." *The New York Times*. Retrieved March 20, 2011 (<http://www.nytimes.com/2003/06/05/national/05TERR.html>).

———. 2007. "Congress Looks Into Obstruction as Calls for Justice Inquiry Rise." *The New York Times*. Retrieved May 29, 2011 (<http://query.nytimes.com/gst/fullpage.html?res=9500E2DA1031F93BA35751C1A9619C8B63>).

Llorente, Marina A. 2002. "Civilization versus Barbarism." Pp. 39–51 in *Collateral Language: A User's Guide to America's New War*, edited by John Collins and Ross Glover. New York: New York University Press.

Locy, Toni, and John Diamond. 2004. "Memo Lists Acceptable 'Aggressive' Interrogation Methods." *USA Today*. Retrieved May 29, 2011 (http://www.usatoday.com/news/world/2004-06-27-cia-interrogation-methods_x.htm).

- Loveman, Mara. 2005. "The Modern State and the Primitive Accumulation of Symbolic Power." *American Journal of Sociology* 110(6):1651–83.
- Luban, David. 2005. "Liberalism, Torture, and the Ticking Bomb." *Virginia Law Review* 91(6):1425–61. Retrieved January 10, 2010.
- Lynch, Michael, and David Bogen. 1996. *The Spectacle of History: Speech, Text, and Memory at the Iran-Contra Hearings*. Durham, NC: Duke University Press.
- Mahler, Jonathan. 2008. *The Challenge: Hamdan V. Rumsfeld, and the Fight Over Presidential Power*. New York: Farrar, Straus and Giroux.
- Maratea, Ray. 2008. "The e-Rise and Fall of Social Problems: The Blogosphere as a Public Arena." *Social Problems* 55(1):139–160.
- Mast, Jason L. 2006. "The Cultural Pragmatics of Event-ness: The Clinton/Lewinsky Affair." Pp. 115–145 in *Social Performance: Symbolic Action, Cultural Pragmatics, and Ritual*, edited by Jeffrey C. Alexander, Bernhard Giesen, and Jason L. Mast. New York: Cambridge University Press.
- Mayer, Jane. 2005. "The Experiment." *The New Yorker* Retrieved June 22, 2011 (http://www.newyorker.com/archive/2005/07/11/050711fa_fact4).
- . 2007. "Whatever It Takes." *The New Yorker* Retrieved July 17, 2011 (http://www.newyorker.com/reporting/2007/02/19/070219fa_fact_mayer?currentPage=all).
- Mazzetti, Mark. 2007. "CIA Destroyed 2 Tapes Showing Interrogations." *The New York Times*. Retrieved May 29, 2011 (<http://www.nytimes.com/2007/12/07/washington/07intel.html>).
- Mazzetti, Mark, and David Johnston. 2007. "Inquiry Begins Into Destruction of Tapes." *The New York Times*. Retrieved May 29, 2011 (<http://www.nytimes.com/2007/12/09/washington/09zubaydah.html>).
- McCain, John. 2005. "Congressional Record, Volume 151 Issue 128 (Wednesday, October 5, 2005)." Retrieved August 5, 2011 (<http://www.gpo.gov/fdsys/pkg/CREC-2005-10-05/html/CREC-2005-10-05-pt1-PgS11061-3.htm>).
- . 2008. "McCain's Speech on Foreign Policy, March 2008." Retrieved August 2, 2010 (http://www.cfr.org/publication/15834/mccains_speech_on_foreign_policy_march_2008.html).

- . 2011. "Bin Laden's death and the debate over torture." Retrieved August 1, 2011 (http://www.washingtonpost.com/opinions/bin-ladens-death-and-the-debate-over-torture/2011/05/11/AFd1mdsG_story.html).
- McGreal, Chris. 2011. "Barack Obama Abandons Guantánamo Closure Plan After Congress Veto." *The Guardian*. Retrieved July 8, 2011 (<http://www.guardian.co.uk/world/2011/jan/20/barack-obama-guantanamo-congress-veto>).
- Merton, Robert K. 1938. "Social Structure and Anomie." *American Sociological Review* 3(5):672–682.
- Miles, Steven H. 2007. "Medical Ethics and the Interrogation of Guantanamo 063." *The American Journal of Bioethics* 7(4):5–11.
- Mills, C. Wright. 1958. "The Structure of Power in American Society." *The British Journal of Sociology* 9(1):29–41.
- Mitchell, W. J. Thomas. 2005. "The Unspeakable and the Unimaginable: Word and Image in a Time of Terror." *English Literary History* 72(2):291–308.
- Molotch, Harvey L., and Deidre Boden. 1985. "Talking Social Structure: Discourse, Domination and the Watergate Hearings." *American Sociological Review* 50(3):273–288.
- Monbiot, George. 2001. "Genocide or Peace." *The Guardian*. Retrieved August 28, 2010 (<http://www.guardian.co.uk/world/2001/oct/02/afghanistan.comment>).
- Montello, D. R. 2001. "Scale in Geography." P. 13501–04 in *International Encyclopedia of the Social and Behavioral Sciences*, edited by N.J. Smelser and P.B. Baltes. New York: Elsevier.
- Mucciaroni, Gary. 2006. *Deliberative Choices: Debating Public Policy in Congress*. Chicago: University of Chicago Press.
- Naples, Nancy A. 1997. "The 'New Consensus' on the Gendered 'Social Contract': The 1987-1988 U.S. Congressional Hearings on Welfare Reform." *Signs* 22(4):907–945.
- Neal, Terry M. 2004. "The Politics of Abu Ghraib." *The Washington Post*. Retrieved March 27, 2011 (<http://www.washingtonpost.com/wp-dyn/articles/A18316-2004May11.html>).

- Nelson, Bill. 2002. "Guantanamo, Cuba." Retrieved July 21, 2010 (<http://www.gpo.gov/fdsys/pkg/CREC-2002-01-24/html/CREC-2002-01-24-pt1-PgS92-3.htm>).
- New York Times. 2009. "A Truth Commission for the Bush Era?" *The New York Times*. Retrieved July 26, 2011 (<http://roomfordebate.blogs.nytimes.com/2009/03/02/a-truth-commission-for-the-bush-era/>).
- . 2011. "The Abuse of Private Manning." *The New York Times*, March 14 Retrieved July 18, 2011 (<http://www.nytimes.com/2011/03/15/opinion/15tue3.html>).
- Nichols, Lawrence T. 1997. "Social Problems as Landmark Narratives: Bank of Boston, Mass Media and Money Laundering." *Social Problems* 44(3):324–41.
- Obama, Barack. 2009a. "Closure Of Guantanamo Detention Facilities." Retrieved August 2, 2010 (http://www.whitehouse.gov/the_press_office/ClosureOfGuantanamoDetentionFacilities/).
- . 2009b. "Executive Order 13491-Ensuring Lawful Interrogations." Retrieved May 8, 2010 (<http://edocket.access.gpo.gov/2009/pdf/E9-1885.pdf>).
- . 2009c. "The President's News Conference." Retrieved June 23, 2011 (<http://www.gpo.gov/fdsys/pkg/DCPD-200900305/html/DCPD-200900305.htm>).
- Ogul, Morris S., and Bert A. Rockman. 1990. "Overseeing Oversight: New Departures and Old Problems." *Legislative Studies Quarterly* 15(1):5–24.
- Orbuch, Terri L. 1997. "People's Accounts Count: The Sociology of Accounts." *Annual Review of Sociology* 23:455–478.
- Owens, Erica. 2007. "Nonbiologic Objects as Actors." *Symbolic Interaction* 30(4):567–84. Retrieved April 3, 2011.
- O'Reilly, Bill. 2009. "Talking Points Commentary: Rewriting History." Retrieved June 23, 2011 (<http://www.youtube.com/watch?v=N3UQkeHk6kM>).
- Palmer, Betsy. 2009. *Senate Committee Hearings: Preparation*. Washington, D.C.: Congressional Research Service.
- Partlow, Joshua, and Julie Tate. 2009. "2 Afghans allege abuse at U.S. site." *The Washington Post* Retrieved May 8, 2010 (<http://www.washingtonpost.com/wp-dyn/content/article/2009/11/27/AR2009112703438.html>).

- Payne, Leigh. 2008. *Unsettling Accounts: Neither Truth nor Reconciliation in Confessions of State Violence*. Durham: Duke University Press.
- Peel, Michael, and Vincent Iacopino. 2002. *The Medical Documentation of Torture*. San Francisco: Greenwich Medical Media.
- Perinbanayagam, R. S. 1974. "The Definition of the Situation: An Analysis of the Ethnomethodological and Dramaturgical View." *The Sociological Quarterly* 15(4):521–541. Retrieved July 17, 2011.
- Peters, Edward. 1985. *Torture*. New York: Blackwell Publishers.
- . 2005. "We Should Call Torture by its Proper Name." *History News Network*. Retrieved July 11, 2011 (<http://hnn.us/articles/5352.html>).
- Pfohl, Stephen. 1977. "The 'Discovery' of Child Abuse." *Social Problems* 24(3):310–323.
- . 1985. "Toward a Sociological Deconstruction of Social Problems." *Social Problems* 32(3):228–232.
- . 1992. *Death at the Parasite Cafe : Social Science (Fictions) and the Postmodern*. New York: St. Martin's Press.
- . 1993. "Twilight of the Parasites: Ultramodern Capital and the New World Order." *Social Problems* 40(2):125–151. Retrieved July 15, 2011.
- . 1994. *Images of Deviance and Social Control: A Sociological History*. New York: McGraw-Hill.
- . 2005. "New Global Technologies of Power: Cybernetic Capitalism and Social Inequality." Pp. 546–592 in *The Blackwell Companion to Social Inequalities*, edited by Mary Romero, Eric Margolis, Mary Romero, and Eric Margolis. Oxford, UK: Blackwell Publishing Ltd Retrieved July 10, 2011 (http://www.blackwellreference.com.proxy.bc.edu/subscriber/uid=572/tocnode?id=g9780631231547_chunk_g978063123154727).
- . 2008. "The Reality of Social Constructions." Pp. 645–668 in *Handbook of Constructionist Research*, edited by James A. Holstein and Jaber F. Gubrium. New York: Guilford Press.
- Philadelphoff-Puren, Nina. 2008. "Hostile Witness: Torture Testimony in the War on Terror." *Life Writing* 5(2):219–236.
- Phillips, Nelson. 2002. *Discourse Analysis: Investigating Processes of Social Construction*. Thousand Oaks, CA: Sage Publications.

- Physicians for Human Rights. 2007. *Leave No Marks: Enhanced Interrogation Techniques and the Risk of Criminality*. Cambridge, MA: Physicians for Human Rights Retrieved (https://s3.amazonaws.com/PHR_Reports/leave-no-marks.pdf).
- . 2008a. *Broken Laws, Broken Lives Medical Evidence of Torture by U.S. Personnel and Its Impact: A Report*. Cambridge, MA: Physicians for Human Rights.
- . 2008b. *Leanh Nguyen, PhD - Broken Laws, Broken Lives*. Retrieved December 20, 2011 (<http://www.youtube.com/watch?v=IkhTJYI2NKk>).
- PollingReport.com. 2010a. "Bush: Job Ratings." Retrieved May 4, 2010 (<http://www.pollingreport.com/BushJob.htm>).
- . 2010b. "Dick Cheney: Favorability Ratings." Retrieved May 4, 2010 (<http://www.pollingreport.com/C.htm>).
- . 2010c. "George W. Bush: Favorability Ratings." Retrieved May 8, 2010 (<http://www.pollingreport.com/BushFav.htm>).
- . 2011. "Bush: Job Ratings (1)." Retrieved May 27, 2011 (<http://www.pollingreport.com/BushJob1.htm>).
- Pollner, Melvin. 1987. *Mundane Reason: Reality in Everyday and Sociological Discourse*. New York: Cambridge University Press.
- Potter, Jonathan. 1996. *Representing Reality: Discourse, Rhetoric and Social Construction*. Thousand Oaks, CA: SAGE Publications.
- Priest, Dana, and Barton Gellman. 2002. "U.S. Decries Abuse but Defends Interrogations." *The Washington Post*. Retrieved May 28, 2011 (<http://www.washingtonpost.com/wp-dyn/content/article/2006/06/09/AR2006060901356.html>).
- Priest, Dana, and Scott Higham. 2004. "At Guantanamo, a Prison Within a Prison." *The Washington Post*. Retrieved August 3, 2010 (<http://www.washingtonpost.com/wp-dyn/articles/A5918-2004Dec16.html>).
- Purdy, Matthew. 2001. "A Nation Challenged: The Law; Bush's New Rules to Fight Terror Transform the Legal Landscape." *The New York Times* Retrieved August 28, 2010 (<http://www.nytimes.com/2001/11/25/us/nation-challenged-law-bush-s-new-rules-fight-terror-transform-legal-landscape.html>).
- Quinn, Carolyn. 2005. "Transcript of Wilkerson interview." *BBC*. Retrieved June 21, 2011 (http://news.bbc.co.uk/2/hi/middle_east/4481092.stm).

- van Reenen, Piet, and Dan Jones. 1996. "Torture: What Can Be Done." Pp. 197–210 in *A Glimpse of Hell: Reports on Torture Worldwide*, edited by Duncan Forrest. New York: New York University Press.
- Rejali, Darius. 1994. *Torture & Modernity: Self, Society, and State in Modern Iran*. Boulder, CO: Westview Press.
- . 2004. "Speak Frankly about Torture." Retrieved July 4, 2010 (http://academic.reed.edu/poli_sci/faculty/rejali/rejali/articles/Speak_Frankly.htm)
- . 2007. *Torture and Democracy*. Princeton, NJ: Princeton University Press.
- . 2008. "Review Essays: 'American Torture Debates'." *Human Rights Review* 9(3):393–400. Retrieved April 25, 2010.
- Riessman, Catherine. 1993. *Narrative Analysis*. Newbury Park, CA: SAGE Publications.
- Risen, James, David Johnston, and Neil A. Lewis. 2004. "Harsh CIA Methods Cited In Top Qaeda Interrogations." *The New York Times*. Retrieved May 13, 2011 (<http://www.nytimes.com/2004/05/13/world/struggle-for-iraq-detainees-harsh-cia-methods-cited-top-qaeda-interrogations.html?pagewanted=all&src=pm>).
- Risse, Thomas. 1999. "International Norms and Domestic Change: Arguing and Communicative Behavior in the Human Rights Area." *Politics & Society* 27(4):529–559.
- Risse, Thomas, and Kathryn Sikkink. 1999. "The Socialization of International Human Rights Norms into Domestic Practice: Introduction." Pp. 1–38 in *The Power of Human Rights: International Norms and Domestic Change*, edited by T. Risse-Kappen, T. Risse, S. C Ropp, and K. Sikkink. New York: Cambridge Univ Press.
- Rosenthal, Alan. 1981. "Legislative Behavior and Legislative Oversight." *Legislative Studies Quarterly* 6(1):115–131.
- Rumsfeld, Donald H. 2004. "Defense Department Operational Update Briefing." *U.S. Department of Defense*. Retrieved September 21, 2009 (<http://www.defenselink.mil/transcripts/transcript.aspx?transcriptid=2973>).
- Sachs, Richard C. 2004. *Hearings in the US Senate: A Guide for Preparation and Procedure*. Washington, D.C.: Congressional Research Service.
- Sartre, Jean-Paul. 2001. *Colonialism and Neocolonialism*. New York: Routledge.

- Savage, Charlie. 2010. "Closing Guantánamo Fades as a Priority." *The New York Times* Retrieved August 25, 2010 (<http://www.nytimes.com/2010/06/26/us/politics/26gitmo.html>).
- Scarry, Elaine. 1985. *The Body in Pain: The Making and Unmaking of the World*. New York: Oxford University Press.
- . 2007. "Among Schoolchildren: The Use of Body Damage to Express Physical Pain." Pp. 279–316 in *Pain and Its Transformations: The Interface of Biology and Culture*, edited by Kay Kaufman Shelemay. Cambridge, MA: Harvard University Press.
- Schmidt, Randall, and John T Furlow. 2005. "Investigation into FBI Allegations of Detainee Abuse at Guantanamo Bay, Cuba Detention Facility." Retrieved January 10, 2011 (<http://www.defense.gov/news/Jul2005/d20050714report.pdf>).
- Schneider, Joseph W. 1985. "Social Problems Theory: The Constructionist View." *Annual Review of Sociology* 11:209–229.
- Scott, James C. 1999. *Seeing Like a State*. New Haven, CT: Yale University Press.
- Scott, Marvin B., and Stanford M. Lyman. 1968. "Accounts." *American Sociological Review* 33(1):46–62.
- Seelye, Katharine Q. 2002. "A Nation Challenged: The Prisoners; Troops Arrive at Base in Cuba to Build Jails." *The New York Times*, January 7 Retrieved July 21, 2010 (<http://www.nytimes.com/2002/01/07/us/a-nation-challenged-the-prisoners-troops-arrive-at-base-in-cuba-to-build-jails.html>).
- Seidman, Steven. 1991. "The End of Sociological Theory: The Postmodern Hope." *Sociological Theory* 9(2):131–146. Retrieved August 25, 2010.
- Shane, Scott. 2009. "Waterboarding Used 266 Times on 2 Suspects." *The New York Times* Retrieved June 23, 2011 (<http://www.nytimes.com/2009/04/20/world/20detain.html>).
- Shane, Scott, and Charlie Savage. 2011. "Bin Laden Raid Revives Debate on Value of Torture." *The New York Times* Retrieved August 1, 2011 (<http://www.nytimes.com/2011/05/04/us/politics/04torture.html>).
- Shor, Eran. 2008. "Conflict, Terrorism, and the Socialization of Human Rights Norms: The Spiral Model Revisited." *Social Problems* 55(1):117–138.
- Silverman, Lisa. 2001. *Tortured Subjects: Pain, Truth, and the Body in Early Modern France*. Chicago, IL: University of Chicago Press.

- Smith, Dorothy E. 1990a. *Texts, Facts, and Femininity: Exploring the Relations of Ruling*. New York: Routledge.
- . 1990b. *The Conceptual Practices of Power*. Boston, MA: Northeastern University Press.
- . 2001. "Texts and the Ontology of Organizations and Institutions." *Culture and Organization* 7(2):159–198.
- Smith, Philip. 1991. "Codes and Conflict: Toward a Theory of War as Ritual." *Theory and Society* 20(1):103–138. Retrieved December 17, 2011.
- Snow, David A., E. Burke Rochford, Steven K. Worden, and Robert D. Benford. 1986. "Frame Alignment Processes, Micromobilization, and Movement Participation." *American Sociological Review* 51(4):464–481.
- Sontag, Deborah. 2001. "'Who Is This Kafka That People Keep Mentioning?'" *The New York Times* Retrieved May 23, 2010 (<http://www.nytimes.com/2001/10/21/magazine/who-is-this-kafka-that-people-keep-mentioning.html>).
- Sontag, Susan. 1977. *On Photography*. New York: Farrar, Straus, and Giroux.
- . 2003. *Regarding the Pain of Others*. New York: Picador.
- . 2004. "Regarding the Torture of Others." *The New York Times Magazine* 23:23–29.
- Spector, Malcolm, and John I. Kitsuse. 1973. "Social Problems: A Re-Formulation." *Social Problems* 21(2):145–159.
- . 1987. *Constructing Social Problems*. New York: Aldine de Gruyter.
- Sugiyama, Tara M., and Marisa Perry. 2006. "The NSA Domestic Surveillance Program: An Analysis of Congressional Oversight during an Era of One-Party Rule." *University of Michigan Journal of Law Reform* 40(1):149–89.
- Sweig, Julia E. 2009. "Give Guantanamo Back to Cuba." *The Washington Post* Retrieved August 25, 2010 (<http://www.washingtonpost.com/wp-dyn/content/article/2009/04/29/AR2009042903940.html>).
- Sykes, Gresham M., and David Matza. 1957. "Techniques of Neutralization: A Theory of Delinquency." *American Sociological Review* 22(6):664–70.
- Taguba, Antonio M. 2004. *Article 15-6 Investigation of the 800th Military Police Brigade*. Washington, D.C.: Department of Defense.

- Taussig, Michael. 1984. "Culture of Terror—Space of Death. Roger Casement's Putumayo Report and the Explanation of Torture." *Comparative Studies in Society and History* 26(3):467–497.
- Taylor, John. 1998. *Body Horror: Photojournalism, Catastrophe, and War*. New York: New York University Press.
- . 2005. "Iraqi Torture Photographs and Documentary Realism in the Press." *Journalism Studies* 6(1):39–49.
- Thiessen, Marc. 2010a. "Could a Captured Taliban Leader Have Warned Us of the Times Square Plot?" *The National Review*. Retrieved July 30, 2011 (<http://www.nationalreview.com/corner/199225/could-captured-taliban-leader-have-warned-us-times-square-plot/marc-thiessen>).
- . 2010b. "Yglesias Admits His Ignorance." *National Review*. Retrieved June 23, 2011 (<http://www.nationalreview.com/corner/194573/yglesias-admits-his-ignorance/marc-thiessen>).
- . 2010c. "Yglesias and the Slow Learners at Think Progress." Retrieved July 5, 2011 (<http://www.nationalreview.com/corner/194550/yglesias-and-slow-learners-think-progress/marc-thiessen>).
- Todorov, Tzvetan. 2009. *Torture and the War on Terror*. New York: Seagull Books.
- Trotter, Alan. 2010. "Detainee 063." *Detainee 063*. Retrieved December 28, 2011 (<http://detainee063.com/>).
- Tétreault, Mary Ann. 2006. "The Sexual Politics of Abu Ghraib: Hegemony, Spectacle, and the Global War on Terror." *National Women's Studies Association Journal* 18(3):33–50.
- U.N. General Assembly. 1948. "The Universal Declaration of Human Rights." *United Nations*. Retrieved July 17, 2011 (<http://www.un.org/en/documents/udhr/>).
- . 1984. "Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment," *University of Minnesota Human Rights Library*. Retrieved July 17, 2011 (<http://www1.umn.edu/humanrts/instree/h2catoc.htm>).
- U.S. Congress. 2003. Senate Committee on Foreign Relations. *Iraq: Status and Prospects for Reconstruction—Resources*: Hearing. 108th Congress, 1st Session, July 29, 2003. Washington, D.C.: U.S. Government Printing Office.
- . 2004. Senate Committee on the Judiciary. *Lessons Learned: The Inspector General's Report on the 9-11 Detainees: Hearing*. 108th Congress, 1st Session.

- . 2005a. Senate Committee on Armed Services. *Review of Department of Defense Detention and Interrogation Operations*: Hearings. 108th Congress, 2nd Session, May 7, 11, 19; July 22; September 9, 2004. Washington, D.C.: U.S. Government Printing Office.
- . 2005b. Senate Committee on Armed Services and Subcommittee on Personnel of the Armed Services. *Review of Department of Defense Detention and Interrogation Policy and Operations in the Global War on Terrorism*: Hearings. 109th Congress, 1st Session, March 10; July 13, 14, 2005. Washington, D.C.: U.S. Government Printing Office.
- . 2005c. Senate Committee on Armed Services. *Transition to Sovereignty in Iraq : U.S. Policy, Ongoing Military Operations, and Status of U.S. Armed Forces*: Hearing. 108th Senate, 2nd Session, June 25, 2004. Washington, D.C.: U.S. Government Printing Office.
- . 2005d. Senate Committee on the Judiciary. *Detainees*: Hearing. 109th Congress, 1st Session, June 15, 2005. Washington, D.C.: U.S. Government Printing Office.
- . 2005e. Senate Committee on the Judiciary. *DOJ Oversight: Terrorism and Other Topics*: Hearing. 108th Congress, 2nd Session, June 8, 2004. Washington, D.C.: U.S. Government Printing Office.
- . 2008a. House Subcommittee on the Constitution, Civil Rights, and Civil Liberties of the Committee on the Judiciary. *Department of Justice to Guantanamo Bay: Administration Lawyers and Administration Interrogation Rules (Part I)*: Hearing. 110th Congress, 2nd Session, May 6, 2008. Washington, D.C.: U.S. Government Printing Office.
- . 2008b. House Subcommittee on the Constitution, Civil Rights, and Civil Liberties of the Committee on the Judiciary. *Justice Department's Office of Legal Counsel*: Hearing. 110th Congress, 2nd Session, Feb 14, 2008.
- . 2008c. House Subcommittee on the Constitution, Civil Rights, and Civil Liberties of the Committee on the Judiciary. *Torture and the Cruel, Inhuman and Degrading Treatment of Detainees: The Effectiveness and Consequences of "Enhanced" Interrogation*: Hearing. 110th Congress, 1st Session, November 8, 2007. Washington, D.C.: U.S. Government Printing Office.
- . 2008d. Senate Committee on the Judiciary. *Confirmation Hearing on the Nomination of Michael B. Mukasey to Be Attorney General of the United States*. 110th Congress, 1st Session, October 17 and 18, 2007. Washington, D.C.: U.S. Government Printing Office.

- . 2008e. Senate Committee on the Judiciary. *How the Administration's Failed Detainee Policies Have Hurt the Fight Against Terrorism: Putting the Fight Against Terrorism on Sound Legal Foundations*: Hearing, 110th Congress, 2nd Session, July 16, 2008. Washington, D.C.: U.S. Government Printing Office.
 - . 2009a. House Committee on the Judiciary. *Applicability of Federal Criminal Laws to the Interrogation of Detainees*: Hearing, 110th Congress, 1st Session, December 20, 2007. Washington, D.C.: U.S. Government Printing Office.
 - . 2009b. House Committee on the Judiciary. *From the Department of Justice to Guantanamo Bay: Administration Lawyers and Administration Interrogation Rules (Part V)*: Hearing, 110th Congress, 2nd Session. Washington, D.C.: U.S. Government Printing Office.
 - . 2009c. House Subcommittee on the Constitution, Civil Rights, and Civil Liberties of the Committee on the Judiciary. *From the Department of Justice to Guantanamo Bay: Administration Lawyers and Administration Interrogation Rules (Part II)*: Hearing, 110th Congress, 2nd Session, June 18, 2008. Washington, D.C.: U.S. Government Printing Office.
 - . 2009d. Senate Committee on Armed Services. *The Treatment of Detainees in U.S. Custody*: Hearings, 110th Congress, 2nd Session, June 17 and Sept 25, 2008. Washington, D.C.: U.S. Government Printing Office.
 - . 2009e. Senate Committee on the Judiciary. *Coercive Interrogation Techniques: Do They Work, Are They Reliable, and What Did the FBI Know About Them?*: Hearing, 110th Congress, 2nd Session, June 10, 2008. Washington, D.C.: U.S. Government Printing Office.
 - . 2009f. Senate Select Committee on Intelligence. *Current and Projected Threats to the National Security of the United States*: Hearing, 110th Congress, 2nd Session, Feb 5, 2008. Washington, D.C.: U.S. Government Printing Office.
- U.S. Congress. Senate. 2004. "Interrogation and Treatment of Foreign Prisoners." 108th Congress, 2nd Session. Congressional Record 150 (July 9, 2004): S7892–3.
- U.S. Department of Justice, Office of the Inspector General. 2003a. "Department of Justice Inspector General Issues Report on Treatment of Aliens Held on Immigration Charges in Connection with the Investigation of the September 11 Terrorist Attack." Retrieved May 23, 2010 (<http://www.justice.gov/oig/special/0306/press.htm>).
- . 2003b. *The September 11 Detainees: A Review of the Treatment of Aliens Held on Immigration Charges in Connection with the Investigation of the September 11 Attacks*. Washington, D.C.

- . 2003c. “Supplemental Report on September 11 Detainees’ Allegations of Abuse at the Metropolitan Detention Center in Brooklyn, New York.” Retrieved May 26, 2010 (<http://www.justice.gov/oig/special/0312/final.pdf>).
- U.S. Department of the Army. 1992. *Intelligence Interrogation*. Washington, D.C.: Headquarters, Department of the Army.
- . 2006. *Human Intelligence Collector Operations*. Washington, D.C.: Headquarters, Dept. of the Army.
- U.S. National Commission on Law Observance and Enforcement. 1931. *Report on Lawlessness in Law Enforcement*. Washington, D.C.: U.S. Government Printing Office.
- U.S. Navy. 2010. “Guantanamo Bay Naval Base.” Retrieved August 26, 2010 (<http://topics.nytimes.com/top/news/national/usstatesterritoriesandpossessions/guantanamobaynavalbasecuba/index.html>).
- . n.d. “CNIC | Naval Station Guantanamo Bay.” *U.S. Navy*. Retrieved August 26, 2010 (<https://www.cnic.navy.mil/Guantanamo/index.htm>).
- United States and Cuba. 1934. “Treaty Between the United States of America and Cuba; May 29, 1934.” Retrieved August 26, 2010 (http://avalon.law.yale.edu/20th_century/dip_cuba001.asp).
- Vaughan, Diane. 1985. *Controlling Unlawful Organisational Behaviour: Social Structure and Corporate Misconduct*. Chicago, IL: University of Chicago Press.
- Veyne, Paul. 1984. *Writing History: Essay on Epistemology*. Middletown Conn.: Wesleyan University Press.
- Voltaire. 2007. “Torture and Capital Punishment.” Pp. 36–37 in *The Phenomenon of Torture*, edited by William F. Schulz. Philadelphia: University of Pennsylvania Press.
- Van Wagenen, Aimee. 2004. “An Epistemology of Haunting: A Review Essay.” *Critical Sociology* 30(2):287–298.
- Wagner-Pacifci, Robin. 1994. *Discourse and Destruction: The City of Philadelphia versus MOVE*. Chicago, IL: University of Chicago Press.
- Waldron, Jeremy. 2005. “Torture and Positive Law: Jurisprudence for the White House.” *Columbia Law Review* 105(6):1681–1750.
- Wallach, Evan. 2006. “Drop by Drop: Forgetting the History of Water Torture in U.S. Courts.” *Columbia Journal of Transnational Law* 45(2):468–506.

- Walton, Kendall L. 1984. "Transparent Pictures: On the Nature of Photographic Realism." *Critical Inquiry* 11(2):246–277.
- Weber, Max. 1997. *The Theory of Social and Economic Organization*. New York: The Free Press.
- Weinberg, Darin. 1997. "The Social Construction of Non-Human Agency: The Case of Mental Disorder." *Social Problems* 44(2):217–234. Retrieved July 23, 2009.
- . 2009. "On the Social Construction of Social Problems and Social Problems Theory: A Contribution to the Legacy of John Kitsuse." *The American Sociologist* 40(1-2):61–78.
- Williams, Linda. 2010. "Cluster Fuck: The Forcible Frame in Errol Morris's Standard Operating Procedure." *Camera Obscura* 25(1_73):29–67. Retrieved August 29, 2010.
- Wood, Diane P. 2003. "The Rule of Law in Times of Stress." *The University of Chicago Law Review* 70(1):455–470.
- Woolgar, Steve, and Dorothy Pawluch. 1985. "Ontological Gerrymandering: The Anatomy of Social Problems Explanations." *Social Problems* 32(3):214–227.
- Yglesias, Matthew. 2010a. "If Marc Thiessen Doesn't Want to be Compared to the Spanish Inquisition, He Should Stop Advocating Torture Techniques Used in the Spanish Inquisition." *ThinkProgress*. Retrieved July 5, 2011 (<http://thinkprogress.org/yglesias/2010/02/08/196096/if-marc-thiessen-doesnt-want-to-be-compared-to-the-spanish-inquisition-he-should-stop-advocating-torture-techniques-used-in-the-spanish-inquisition/>).
- . 2010b. "No One Expects The Spanish Inquisition." *ThinkProgress*. Retrieved July 5, 2011 (<http://thinkprogress.org/yglesias/2010/02/08/196102/no-one-expects-the-spanish-inquisition/>).
- Zagorin, Adam, and Timothy J. Duffy. 2005. "Inside the Interrogation of Detainee 063." *Time*. Retrieved July 7, 2010 (<http://www.time.com/time/magazine/article/0,9171,1071284,00.html>).
- Zveržhanovski, Ivan. 2007. "Watching War Crimes: The Srebrenica Video and the Serbian Attitudes to the 1995 Srebrenica Massacre." *Southeast European and Black Sea Studies* 7(3):417–30.